

**THE
COMPLETE LAW
OF HOUSING**

FOURTH EDITION



THE COMPLETE LAW OF HOUSING

FOURTH EDITION

BY

H. A. HILL, M.A.

OF GRAY'S INN, BARRISTER-AT-LAW

AND

D. P. KERRIGAN, B.L. (EDIN.)

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PREFACE

THE basic law relating to housing is still to be found in the Housing Act, 1936. The main changes since the date of that Act are in the financial provisions. Exchequer subsidies are now paid in respect of each house instead of each person rehoused, as was the case under the 1936 Act. In addition, subsidies are no longer limited to houses provided for the rehousing of persons displaced by action taken under Parts II, III, IV of the 1936 Act.

The compulsory purchase provisions relating to acquisitions under Part V of the 1936 Act are now to be found in the Acquisition of Land (Authorisation Procedure) Act, 1946. Part II of the Town and Country Planning Act, 1944, is also printed in this edition; but as the book goes to press it seems that some amending provision may be expected shortly, as in dealing with the compensation provisions of the Town and Country Planning Bill the Minister said in Committee on the 18th March that the Government had decided to "modify the present basis for compulsory acquisition."

Endeavour has been made in this edition to state the law as it existed on the 1st December, 1946. The following cases have since been reported: *Price and others v. Minister of Health*, [1947] 1 All E. R. 47, and *Summers and others v. Minister of Health*, [1947] 1 All E. R. 184. These cases, however, follow *Stafford v. Minister of Health*, [1946] 1 K. B. 622, and *Miller v. Minister of Health*, [1946] 1 K. B. 626, and do not make any material alteration in the definition of the law.

A case which was heard on 14th February, 1947, and which has not been reported so far (*Huyton-with-Roby (St. John's Road) Compulsory Purchase Order, 1945 (Application by Johnson)*), decided that where the Minister received from the local authority a letter accompanying the order, in which it was said that negotiations for purchase by agreement had failed, such a letter should have been disclosed to the objector, even although it had been received by the Minister while he was acting administratively, and although the "lis" had not been joined.

The question of "natural justice" in relation to bias on the part of the Minister has also been ventilated in the case of *Franklin and others v. Minister of Town and Country Planning* (see The Times Newspaper, 21st February and 25th March, 1947). The new Town and Country Planning Bill, when it becomes an Act, will not be without effect on housing; and housing operations in the future may be expected to form an integral part of planning development. It is too early, however, in the Bill's career through Parliament to speculate on its future effect on housing.

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H. A. H.
D. P. K.

THE ENGLISH AND EMPIRE DIGEST

The citation of each case in the text and table of cases is followed by a reference to the volume, page and number at which the case appears in the Digest. Thus :

Cooke v. L.C.C., [1911] 1 Ch. 604 ; 11 Digest 173, 503.

HALSBURY'S COMPLETE STATUTES OF ENGLAND

Each reference to a public Act of Parliament or section of such Act (other than Acts printed in this book) in the text and table of statutes is followed by a reference to the volume and page at which the Act or section appears in Halsbury's Statutes. Thus :

Public Health Act, 1875 ; 13 Halsbury's Statutes 623.

THE ALL ENGLAND LAW REPORTS

In the text and the table of cases the citations of the reports of cases decided since the beginning of 1936 include a reference to the All England Law Reports. Thus :

Horn v. Minister of Health, [1936] 2 All E. R. 1299.

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BOOK ONE
THE HOUSING ACTS

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INTRODUCTION

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CHAPTER 1

HISTORY OF THE HOUSING ACTS

It is usual to regard the Housing of the Working Classes Act, 1890, as the first real attempt to deal with the slum question. But even at that date the subject had been continuously before the public for some forty years. Indeed, it would have been strange had the humanitarian and philanthropic attitude of the nation's statesmen in the middle of the Victorian period resulted in no attempt to solve this problem, and it is to the Earl of Shaftesbury that we trace the origin of two measures, passed in 1851, which may be regarded as the starting-point of the attempt to provide proper housing accommodation for the working-class members of the nation.

These two Acts were the Common Lodging Houses Act (14 & 15 Vict. c. 28), and the Labouring Classes Lodging Houses Act (14 & 15 Vict. c. 34). The former dealt with the registration, regulation, inspection and cleansing of common lodging houses generally; the latter empowered the council of any borough and any local board of health to adopt the provisions of the Act which sanctioned the borrowing of money for the erection, purchase or lease of lodging houses for the working classes.

In 1855 an Act was passed to consolidate and amend the Nuisances Removal and Diseases Prevention Acts, 1848 and 1849 (18 & 19 Vict. c. 121). This was followed by the Sanitary Act of 1866 (29 & 30 Vict. c. 90). The former Act contained provisions as to the overcrowding of houses, nuisances from drains, cesspools, privies, etc., and the ascertainment by inspection of the existence of nuisances. The Act of 1866 empowered the Secretary of State to declare, on the application of the nuisance authority in the Metropolis or in towns of not less than 5000 inhabitants, an enactment to be in force authorising the nuisance authority to make regulations for houses let in lodgings or occupied by members of more than one family, and for the registration and inspection of such houses, etc. (s. 35). By s. 47 of the Sanitary Laws Amendment Act, 1874, the Local Government Board, to which the powers of the Secretary of State had been transferred, were empowered to declare the enactment mentioned in s. 35 of the 1866 Act to be in force in any part of the Metropolis, and in the district of any sanitary authority. The power of making regulations under the said section was extended to the ventilation of rooms, paving and drainage of premises, the

separation of the sexes, and to notices to be given and precautions to be taken in case of any dangerously infectious or contagious disease. The Local Government Board did in fact, in November 1884, declare the enactment in force in the whole of those sanitary districts of the Metropolis in which it was not already in operation. Then in 1875 came the great Public Health Act, which repealed the above Acts save in the Metropolis, but included provisions of a like nature in their stead.

With the exception of the two Acts of 1851 these enactments were more Sanitary Acts than Housing Acts. Housing legislation proper, however, was introduced again in 1866, and in 1868 there was passed into law Mr. Torrens's Act, the Artizans' and Labourers' Dwellings Act (31 & 32 Vict. c. 130), subsequent amendments of which were made in 1879 (42 & 43 Vict. c. 64) and in 1882 (45 & 46 Vict. c. 54). In these three Acts is to be found the direct origin of many of the provisions as to insanitary buildings now contained in Part II of the Housing Act, 1936.

Of equal importance were the Artizans' and Labourers' Dwellings Improvement Acts, 1875 and 1879, known as Sir Richard Cross's Acts. The contrast between the two sets of statutes cannot be better illustrated than by quoting from the Draft Report of the Chairman of the Select Committee of the House of Commons in 1882 :

" Mr. Torrens's Acts proceed upon the principle that the responsibility of maintaining his houses in proper condition falls upon the owner, and that if he fails in his duty the law is justified in stepping in and compelling him to perform it. They further assume that houses unfit for human habitation ought not to be used as dwellings, but ought, in the interests of the public, to be closed and demolished and to be subsequently rebuilt. The expropriation of the owner is thus a secondary step in the transaction, and only takes place after the failure of other means of rendering the houses habitable.

" The Acts of 1875-79 (Sir Richard Cross's Acts) proceed upon a different principle. They contemplate dealing with whole areas, where the houses are so structurally defective as to be incapable of repair, and so ill-placed with reference to each other as to require, to bring them up to a proper sanitary standard, nothing short of demolition and reconstruction. Accordingly, in this case, the local authority, armed with compulsory powers, at once enters as a purchaser and on completion of the purchase proceeds forthwith to a scheme of reconstruction."

In the same way that Mr. Torrens's Acts were the origin of Part I of the 1925 Act, so Sir Richard Cross's Acts were the origin of Part II of the 1925 Act which was superseded by Part I of the Housing Act, 1930, which in turn is now superseded by Part III of the Housing Act, 1936.

After some amendments, which had been found in practice to be needed, had been made by the Housing of the Working Classes Act, 1885, the next big step was the consolidation and extension of housing law. This was done in the Housing of the Working Classes Act, 1890, which until the Act of 1925 was known as the principal

Act. Part I of this Act enabled local authorities to make schemes for the clearing of insanitary areas and for the carrying out of rehousing. Part II dealt with insanitary houses and obstructive buildings and provided for their repair, closing or demolition, while Part III empowered local authorities to buy land and erect thereon "buildings suitable for lodging-houses for the working classes," the management and regulation of which was to be vested in the local authority and for the tenancy or occupation of which they might make reasonable charges.

In 1899 was passed the Small Dwellings Acquisition Act which empowered local authorities to make advances to residents in any houses within their areas for the purpose of enabling them to acquire the ownership of the houses. Amendments have from time to time been made in this Act, most of which, however, is still in force. Other Housing Acts in 1900 and 1903 preceded the Housing, Town Planning, etc. Act, 1909, which, besides amending the earlier Acts, introduced town planning schemes and provided for the appointment of county medical officers of health and the establishment of public health and housing committees of county councils.

In the year after the War appeared two further Acts, the Housing, Town Planning, etc. Act, 1919, and the Housing (Additional Powers) Act, 1919. The former of these Acts imposed on local authorities the duty immediately to prepare schemes to meet the housing needs of their areas, extended the compulsory powers of acquisition so as to include the purchase of land not only for houses but also for purposes incidental to the development of the land as a building estate, including the provision, maintenance and improvement of houses and gardens, factories, workshops, places of worship and places of recreation, and introduced into the basis of assessing compensation the new principle of reducing the compensation to less than site value if the site was to be used for rehousing. Provision was also made in this Act for contributions by the Government towards the expenses of local authorities and public utility societies. Further provisions as to subsidies were contained in the Housing, etc. Act, 1923, and the Housing (Financial Provisions) Act, 1924.

In 1925, the Housing Act, 1925, and Town Planning Act, 1925, consolidated respectively all the provisions in previously enacted legislation then in force relating to housing and town planning. In 1930, a further Housing Act effected considerable amendment of the Housing Act, 1925, particularly with respect to the clearance and treatment of unhealthy areas and the repair and demolition of insanitary dwellings. Finally, in 1933, the Housing (Financial Provisions) Act brought to an end the power of the Minister of Health to grant subsidies under the 1923 and 1924 Acts, it being considered that there was no longer any economic justification for the continuance of these subsidies.

In 1935 the Housing Act, 1935, carried the powers possessed by local authorities for improving the housing of the working classes a stage further. It set up a national standard by which to measure overcrowding and conferred the necessary powers on authorities for

the abatement of this evil. It also introduced a new system of redevelopment areas for the purpose of abolishing congested working-class districts in central positions.

In addition the Act effected a number of important amendments, *inter alia* abolishing the reduction factor and reorganising the whole system of exchequer grants.

The Housing Act, 1936, is a consolidating Act ; such amendments as are effected by it are of a minor character.

Since 1936 no substantial alterations have been made in the basic law relating to housing. The Housing (Financial Provisions) Act, 1938, amended the exchequer and rate fund contributions and made them payable on the basis of *each house* provided for persons displaced instead of the former *per capita* basis of displaced persons rehoused.

The Housing (Emergency Powers) Act, 1939, was mainly a war damage enactment and bears no real relation to housing law proper.

The Housing (Temporary Accommodation) Act, 1944, provides the machinery for making available temporary structures to meet urgent post war needs and a power to acquire sites for such structures.

The Housing (Temporary Provisions) Act of the same year had two purposes in view, namely, to permit the acquisition of land under Part V without holding a local inquiry and to make exchequer contributions available for all houses provided without limitation to the rehousing of persons displaced by action taken under Parts II, III, and IV of the Housing Act, 1936. These purposes are now achieved under s. 2 of the Acquisition of Land (Authorisation Procedure) Act, 1946, and the Housing (Financial and Miscellaneous Provisions) Act, 1946, respectively.

In 1945 the Housing (Rural Workers) Acts expired and no new obligations under these Acts can now arise. Speaking in the House of Commons on the 17th August, 1945, the Lord Privy Seal (Mr. Arthur Greenwood) indicated that the Government were of opinion that the use which had been made in England of these Acts did not warrant their further continuance.

The Building Materials and Housing Act, 1945, is not strictly a housing statute, but it must be mentioned since it amends s. 91 of the 1936 Act and s. 92 of the 1935 Act, making the giving of assistance for the acquisition of houses by private individuals, under the Small Dwellings Acquisition Acts and the 1936 Act, available for the purchase of houses up to a value of £1,500. It also creates (1) financial machinery to assist in the operation of the Temporary Accommodation Act of 1944 ; and (2) new offences where rents or selling prices imposed by licensing regulations are contravened.

The purpose of the Housing (Temporary Accommodation) Act, 1945, is to enable local authorities to make use of open spaces for the erection of temporary structures : *Cf. R. v. Minister of Health, Ex parte Villiers*, [1936] 2 K. B. 29 ; [1936] 1 All E. R. 817 ; 100 J. P. 212.

Finally, the financial subsidies for housing purposes have been

completely recast by the Housing (Financial and Miscellaneous Provisions) Act, 1946. The subsidies are no longer limited to houses provided to meet displacements, and Exchequer and rate fund subsidies are both payable for a period of sixty years.

By Part II of the Town and Country Planning Act, 1944, and the Acquisition of Land (Authorisation Procedure) Act, 1946, the compensation and acquisition procedures are substantially modified. The Act of 1944 is temporary in character and applies only where notice to treat is served on or before the 17th November, 1949. Its effect is to relate in that period all compensation to values current at the 31st March, 1939.

The Act of 1946 applies a unified procedure to all acquisitions of land (Part III of the principal Act excluded) and supersedes the provisions of the First and Second Schedules of the principal Act in the case of purchases other than those under Part III. The 1946 Act also provides a temporary procedure for speedy acquisition, up to the 18th April, 1951, which enables authorities to enter after seven days after an authorisation by the Minister, which may be given without causing a local inquiry to be held.

CHAPTER 2

SUMMARY OF THE MAIN PROVISIONS OF THE HOUSING ACTS

- (1) MEASURES TO SECURE THAT WORKING-CLASS DWELLINGS ARE MAINTAINED IN A CONDITION FIT FOR HUMAN HABITATION AND TO PROLONG THE LIFE OF SUCH HOUSES.

Conditions to be implied on letting houses for habitation.—

Section 2 of the Housing Act, 1936, provides that there shall, notwithstanding any stipulation to the contrary, be implied in contracts for letting houses at rents not exceeding

(a) in the case of a house situate in the administrative county of London, forty pounds ;

(b) in the case of a house situate elsewhere, twenty-six pounds ;

a condition that the house is at the commencement of the tenancy, and will be kept by the landlord during the tenancy, in all respects reasonably fit for human habitation. By s. 3 this provision is extended to cover the case of the workman engaged in agriculture where the provision of a house forms part of his remuneration. The effect of this provision is that a duty is cast upon the landlord throughout the tenancy to execute such repairs as are necessary to keep the premises in all respects reasonably fit for human habitation. The house must be kept decently fit for human beings to live in. If there is a breach of this statutory provision, the tenant can sue the landlord for damages as well as abandon his tenancy. It is the duty of the tenant to give notice to his landlord of any defect in the house which he alleges renders the house unfit for human habitation, and failure to give such notice may prevent the recovery of damages, except in the case of a latent defect. Strangers to the contract (*e.g.* the tenant's wife or children) cannot sue on the implied undertaking. The provision would appear to apply to statutory tenancies. (See s. 2 and notes thereto, p. 48, *post.*)

Byelaws.—Under s. 6 of the Housing Act, 1936, byelaws may be made with the object of securing that working-class houses are brought up to a certain standard of fitness for human habitation and maintained in that condition. (See p. 54, *post.*)

By s. 84 of the Housing Act, 1936, local authorities may make byelaws for the management, use, and regulation of dwelling-houses provided by them. (See p. 203, *post.*)

Power to make advances in respect of the repair of houses.—In certain circumstances a local authority may make advances to persons or bodies of persons carrying out, or undertaking to carry out, repairs to houses. (See ss. 90 and 91 of the 1936 Act, pp. 216, 217, *post*.)

Power of the Court to authorise superior landlord to enter and execute repairs.—By s. 162 of the 1936 Act, the Court is empowered to authorise any person entitled to any interest in any land used in whole or in part as a site for houses for the working classes who proves that the premises on the land are, or are likely to become, dangerous or injurious to health or unfit for human habitation, and that his interests are thereby prejudiced, to enter on the land and to execute such works as may be necessary. The local authority in whose area the land is situated may be authorised to exercise supervision over the works. (See p. 290, *post*.)

Periodical inspection of houses by local authorities.—By s. 5 of the 1936 Act, a duty is imposed on local authorities to cause an inspection of their district to be made from time to time with a view to ascertaining whether any house therein is unfit for human habitation (see p. 53, *post*). Such inspections doubtless tend to sustain the interest of owners in their property.

Compensation for well-maintained houses.—The fact that the Minister of Health may give directions for the making of a payment in respect of a house included in a clearance area and which has been made the subject of a compulsory purchase order or clearance order, where he is satisfied that the house, notwithstanding its sanitary defects, has been well maintained will also help to secure attention by landlords to the repair of houses approaching old age (see s. 42 of the 1936 Act, p. 140, *post*). Many landlords, in the past, refrained from repairing old houses because, in the event of the houses being included in a clearance area, they would receive no compensation for their expenditure. The old law did nothing to encourage the good landlord and drew no distinction between a landlord who repaired his houses right up to the moment of clearance and one who, anticipating clearance, did nothing except collect the rents. The Act of 1935, which instituted these payments, secured that virtue shall have a tangible reward.

(2) MEASURES ENABLING LOCAL AUTHORITIES TO DEAL WITH INDIVIDUAL HOUSES WHICH HAVE BECOME UNFIT FOR HUMAN HABITATION.

Power to require repair of unfit houses.—Section 9 of the Housing Act, 1936, enables a local authority to require the repair of any house which is unfit for human habitation and which can be made so fit at a reasonable cost. On failure by the person having control of the house to execute the required works, the

local authority themselves may execute the works and recover the expenses from the person having control of the premises or from his principal or beneficiary as the case may be (*ibid.*, s. 10). A right of appeal to the County Court for the district is given to any person aggrieved by a notice requiring the execution of works, or by a demand for the recovery of expenses by the local authority, and by any order made by a local authority with respect to such expenses (*ibid.*, s. 15). See further, notes to ss. 9, 10 and 15 of the 1936 Act, pp. 62, 67, 81, *post*.

Power to require the demolition of a house in certain circumstances.—Subject to a right of appeal to the County Court, s. 11 of the 1936 Act empowers a local authority to require the demolition of houses unfit for human habitation, which in the opinion of the authority are not capable of repair at a reasonable expense. It is recognised, however, that in some cases an owner may be willing to render his property fit for human habitation notwithstanding the expense, and in this case the local authority may, if they think fit to do so, accept his undertaking that the house will not be used for human habitation until it has been rendered fit for that purpose. In the event of a breach of the undertaking the local authority are required to make a demolition order. (See p. 70, *post*.)

Power to make closing orders.—A local authority may serve notices to repair under s. 9 of the 1936 Act or make a closing order (in lieu of a demolition order) in respect of :

- (a) Any part (not the whole) of a building occupied or which is suitable for occupation by persons of the working classes.
- (b) Any underground room which, by virtue of s. 12 (2) of the 1936 Act, is to be deemed to be unfit for human habitation.

See ss. 9, 12 of this Act, pp. 62, 76, *post*.

There is the same right of appeal to the County Court against the making of a closing order or a refusal to determine a closing order as against a demolition order.

The local authority must determine a closing order on being satisfied that the part of the building or the room to which it relates has been rendered fit for human habitation.

Under this section the closing order may prohibit the use of the part of the building or of the room, as the case may be, for any purpose other than a purpose approved by the local authority (not merely for human habitation), but the approval of the authority must not be unreasonably withheld. A right of appeal to the County Court is given against "a withholding of approval in relation to the use for any purpose of premises in respect of which a closing order is in force."

Re-conditioning by local authorities.—As a result of a series of amendments of Part III of the Housing Act, 1925, effected by s. 20 of the Housing Act, 1935, which as so amended is reproduced

in the 1936 Act (s. 72), a local authority may acquire houses for the purpose of re-conditioning them and making them fit for human habitation for persons of the working classes (see p. 191, *post*). Instead of carrying out the necessary works themselves, the authority may sell or lease any house so acquired to some person subject to conditions for securing that he will re-condition it. (See s. 79 of the 1936 Act, p. 198, *post*.)

Where any person has appealed against a notice under Part II of the 1936 Act, requiring the execution of works to a house, and the judge or court in allowing the appeal has found that the house cannot be rendered fit for human habitation at a reasonable expense, the local authority may purchase that house by agreement, or may be authorised to purchase it compulsorily, and if they purchase the house compulsorily, they must forthwith execute all such works as were specified in the notice against which the appeal was brought. (See s. 16, p. 84, *post*.)

Re-conditioning by owners.—Any owner of a dwelling-house, which is occupied, or is of a type suitable for occupation, by persons of the working classes and in respect of which works of improvement (otherwise than by way of decoration or repair) or structural alteration are proposed to be executed, may submit a list of the proposed works to the local authority with a request in writing that the authority shall inform him whether in their opinion the house would, after the execution of those works, or of those works together with any additional works, be in all respects fit for human habitation and would, with reasonable care and maintenance, remain so fit for a period of at least five years.

As soon as may be after the receipt of such a list and request as aforesaid the local authority must take the list into consideration and must inform the owner whether they are of opinion as aforesaid or not, and in a case where they are of that opinion, must furnish him with a list of the additional works (if any) appearing to them to be required.

Where the local authority have stated that they are of opinion as aforesaid and the works specified in the list submitted to them, together with any additional works specified in a list furnished by them, have been executed to their satisfaction, they must, on the application of any owner of the house, and upon payment by him of a fee of one shilling, issue to him a certificate that the house is fit for human habitation and will with reasonable care and maintenance remain so fit for a period (being a period of not less than five or more than ten years) to be specified in the certificate (Housing Act, 1936, s. 51, p. 157, *post*).

During the period specified in a certificate given under this section, no action may be taken under Part III of the Act with a view to the demolition of the house as being unfit for human habitation, or under s. 11 of this Act, or under the provisions of s. 12 of the Act relating to closing orders.

For the above purpose, the expression "improvement" includes

the provision of additional or improved fixtures or fittings. (See p. 155, *post*.)

Note the special provisions contained in s. 52 of this Act (p. 161, *post*) in the case where the house in respect of which proposals under the above section have been submitted, has been included :

- (a) in a clearance or compulsory purchase order confirmed by the Minister ; or
- (b) in a demolition order which has become operative ; or
- (c) in a re-development plan approved by the Minister ; or
- (d) in an area (but not yet in an order or plan) which has been defined as a clearance area or proposed re-development area.

(3) MEASURES ENABLING LOCAL AUTHORITIES TO SECURE THE REMOVAL OF OBSTRUCTIVE BUILDINGS.

Power of local authority to order demolition of obstructive building.—Power to order the demolition of an obstructive building is conferred by s. 54 of the Housing Act, 1936 (see p. 163, *post*). By s. 54 (3), *ibid.*, an obstructive building is defined as a building which, by reason only of its contact with, or proximity to, other buildings, is dangerous or injurious to health. Before making a demolition order, the owner or owners of the building must be afforded an opportunity of being heard by the authority as in the case of a demolition order under s. 11 (p. 70, *post*). There is a right of appeal to the County Court against the order under s. 15 of this Act (p. 81, *post*). In certain circumstances the owners of the land on which the obstructive building is situated may urge the local authority to purchase the land and building and after taking possession demolish the building. (See Housing Act, 1936, s. 55, p. 165, *post*.)

(4) MEASURES ENABLING LOCAL AUTHORITIES TO DEAL WITH AREAS.

Clearance areas.—Provisions with respect to clearance areas are contained in Part III of the 1936 Act (p. 94, *post*). These provisions replace and reproduce those contained in Part I of the Housing Act, 1930, as amended by the Housing Act, 1935.

The conditions which the local authority must be satisfied exist before they declare an area to be a clearance area are prescribed by s. 25 of the Act (p. 94, *post*), which reproduces s. 1 of the Act of 1930, and are as follows :

The local authority must be satisfied

- (i) (a) that the dwelling-houses in the area are unfit for human habitation by reason of disrepair or sanitary defects ; or
- (b) that the dwelling-houses in the area are dangerous or injurious to the health of the inhabitants of the area

by reason of their bad arrangement or the bad arrangement of the streets ; and

- (ii) that the other buildings in the area are, by reason of their bad arrangement or the bad arrangement of the streets, dangerous or injurious to the health of the inhabitants of the area ; and
- (iii) that the most satisfactory method of dealing with the conditions in the area is the demolition of all the buildings in the area ; and
- (iv) that in so far as suitable accommodation available for persons of the working classes who will be displaced by the clearance of the area does not already exist, the council can provide or secure the provision of such accommodation in advance of the displacements which will from time to time become necessary as the demolition of the buildings in the area or different parts thereof proceeds ; and
- (v) that the resources of the authority are sufficient for the purpose.

The steps to be taken by a local authority in dealing with a clearance area are :

- (1) Define area on a map.
- (2) Pass a resolution declaring the area to be a clearance area.
- (3) Forward to the Minister a copy of the resolution and a statement of the number of persons of the working classes occupying the buildings in the area ; *and*
- (4) An undertaking to carry out or secure the carrying out of such re-housing as the Minister considers necessary within a period specified by him.
- (5) As soon as it is clear that re-housing accommodation will be available as required, then make a clearance order or acquire land in the area by agreement or make a compulsory purchase order, as may be requisite.
- (6) On clearance order becoming operative secure the vacation of buildings through owners or under s. 155 in accordance with the dates specified in the order. Owner is to demolish buildings within six weeks of vacation (or within such longer period as the local authority deem reasonable).
- (7) On acquisition of land by agreement, or on possession being obtained under compulsory purchase order :
 - (i) secure vacation of buildings ; and
 - (ii) (a) demolish buildings within six weeks of vacation (or within such longer period as local authority deem reasonable) and (b) appropriate (carrying out requirement of compulsory purchase order as to appropriation for re-housing, if any) or sell or lease the land as the case may be ; or

- (iii) sell or lease the land (except land required by a compulsory purchase order to be appropriated for re-housing) on condition of immediate demolition.

Clearance orders.—A clearance order must be made on the form prescribed by the Minister of Health (see Third Schedule to the Act). An important amendment of the law was effected by s. 62 of the Housing Act, 1935, which is reproduced in s. 40 of the 1936 Act (p. 135, *post*), relating to buildings (houses and "other buildings") included in a clearance area solely on the ground of their bad arrangement or the narrowness or bad arrangement of the streets. Such buildings must now be excluded from a clearance order. The result is that "other buildings," *i.e.* buildings other than dwelling-houses, can never be lawfully included in a clearance order, while houses can be included only if they are unfit for human habitation.

The reason for retaining in s. 25 of the 1936 Act (p. 94, *post*) (which reproduces s. 1 of the 1930 Act) power to include property in a clearance area on the ground of bad arrangement is undoubtedly to enable the Minister to reject proposals for re-conditioning unfit houses where congested arrangement would render this method of dealing with the conditions an unsatisfactory one.

Owners of property affected by the order are to be served with notice of the making of the order and are given an opportunity of lodging objections with the Minister of Health against its confirmation. Unless these objections are withdrawn the Minister must hold a local inquiry before confirming the order. In a note to the Third Schedule to the Act (see p. 331, *post*) will be found a number of grounds of objection likely to be put forward on behalf of property owners. A consideration of these grounds will give local authorities some idea of the case they have to meet at the local inquiry.

Compulsory purchase order.—The procedure to be followed in order to obtain a compulsory purchase order in respect of land included in a clearance area and of land adjoining or surrounded by a clearance area (see s. 27 of the 1936 Act, p. 110, *post*) is laid down in the First Schedule to the Act (p. 321, *post*). Again, the order must be in the prescribed form; notice of the making of the order must be given to owners of property which it is proposed to acquire and such owners may lodge objections as in the case of clearance orders. If objection is made and not withdrawn the Minister must hold a public local inquiry.

Special attention is directed to an important amendment of the law relating to buildings included in the clearance area solely on the ground of the bad arrangement or the narrowness or bad arrangement of the streets, effected by s. 62 (1) of the Housing Act, 1935, now repealed but reproduced in s. 40 of this Act (p. 135, *post*). Such buildings may still be included in a compulsory purchase order (contrast with the case of clearance areas, *supra*), but the compensation to be paid for the land including the buildings thereon shall be assessed in accordance with the provisions of the Fourth Schedule

instead of on the basis of site value as formerly. The difference is approximately the difference between "site" value (as in the case of unfit houses) and "market" value. In the case of unfit dwelling-houses, nothing is paid for the house itself as distinct from the land, whereas in the case of buildings included only because of bad arrangement, approximately market value will be paid for the land and buildings. (See "Compensation," p. 719, *post*.)

Obligation of local authority and of the Minister to state reasons for deciding that a building is unfit.—Where a person upon whom notice of a clearance order or of a compulsory purchase order made under Part III of this Act is required to be served has duly made objection thereto on the grounds that a building included therein is not unfit for human habitation, and the objection has not been withdrawn, the Minister shall not cause a public local inquiry with respect thereto to be held earlier than the expiration of fourteen days after it has been shown to his satisfaction that the local authority have served upon the objector a notice in writing stating the facts they allege as their principal grounds for being satisfied that the building is so unfit (s. 41 (1), p. 138, *post*).

Any person who objects to a clearance order on the ground that a building included therein, being a building in which he is interested, is not unfit for human habitation, or who objects on the like ground to a compulsory purchase order made under Part III of this Act, and who appears at a public inquiry in support of his objection, shall, if the building is included in the order as confirmed as being unfit for human habitation, be entitled, on making a request in writing, to be furnished by the Minister with a statement in writing of his reasons for deciding that the building is so unfit (s. 41 (2), p. 138, *post*).

Appeals to High Court.—Clearance and compulsory purchase orders made under Part III of this Act or the Minister's approval of a re-development plan, may be challenged in the High Court on certain limited grounds under the provisions of the Second Schedule to the Act, which replaces s. 11 of the 1930 Act. (See p. 70, *post*.)

Arrangements where acquisition of land in a clearance area found to be unnecessary.—Where a local authority have submitted to the Minister an order for the compulsory purchase of land in a clearance area, and the Minister, on an application being made to him by the owner or owners of the land and the authority, is satisfied that the owner or owners of the land, with the concurrence of any mortgagee thereof, agree to the demolition of the buildings thereon and that the authority can secure the proper clearance of the area without acquiring the land, the Minister may—

- (a) in a case where the order has not been confirmed, authorise the authority to submit, forthwith and without any previous publication or service, a clearance order with respect to the buildings, and upon their so doing may modify the compulsory

- purchase order by excluding the land therefrom and confirm the clearance order without causing an inquiry to be held ; or
- (b) in a case where the compulsory purchase order has been confirmed but the land has not become vested in the authority, authorise them to discontinue proceedings for the purchase of the land on their being satisfied that such covenants have been or will be entered into by all necessary parties as may be requisite for securing that the buildings shall be demolished in like manner, and the land become subject to the like restrictions and conditions, as if the authority had dealt with the land in accordance with the provisions of s. 30 of the Act. (Housing Act, 1936, s. 31, p. 116, *post*.)

Use which may be made of the cleared area.—Where a clearance order has been made and complied with, owners will not necessarily be free to develop the land like any other vacant site in the district. By s. 26 (5) of the 1936 Act (p. 104, *post*), the land is not to be used for building purposes, or otherwise developed, except subject to such restrictions and conditions, if any, as the local authority may think fit to impose. A right of appeal lies to the Minister of Health against such restrictions and conditions. By s. 32 of the Act (p. 118, *post*) a local authority are given power to purchase any part of the land, after the expiration of eighteen months from the date on which the clearance order became operative in cases where such part of the land has not been, or is not in the process of being, used for building purposes or otherwise developed by the owner in accordance with plans approved by the authority and any restrictions or conditions imposed under s. 26 (5).

Where the local authority have themselves purchased the land by means of a compulsory purchase order, they may, subject to compliance with any provision contained in the compulsory purchase order with respect to the carrying out of re-housing operations, appropriate the land for any purpose for which they are authorised to acquire land or they may sell or let the land subject to such restrictions and other conditions as they think fit. They may sell or let the land before clearing the buildings, but in this case they must impose the condition that the buildings thereon will be demolished.

Re-housing.—A local authority before taking any action necessitating the displacement of any persons of the working classes under Part III of the 1936 Act (p. 94, *post*) must undertake to carry out or to secure the carrying out of such re-housing operations as the Minister may consider to be reasonably necessary.

Re-development areas.—Where a local authority are satisfied that their district comprises any area in which the following conditions exist :

- (a) that the area contains fifty or more working-class houses ;
- (b) that at least one-third of the working-class houses in the area are overcrowded, or are unfit for human habitation and

not capable at a reasonable expense of being rendered so fit, or are so arranged as to be congested ;

(c) that the industrial and social conditions of their district are such that the area should be used to a substantial extent for housing the working classes ; and

(d) that it is expedient in connection with the provision of housing accommodation for the working classes that the area should be re-developed as a whole ;

it becomes their duty to cause the area to be defined on a map and to pass a resolution declaring the area to be a re-development area.

A copy of the resolution and of the map must then be sent to the Minister and a notice published in one or more local newspapers stating that the resolution has been passed and naming a place within their district where a copy of the resolution and of the map may be inspected (Housing Act, 1936, s. 34, p. 120, *post*).

Re-development plan.—Within six months after passing a resolution declaring an area to be a re-development area (or within such extended period as the Minister may allow) the authority must prepare and submit to the Minister a re-development plan indicating the manner in which it is intended that the area should be laid out and the land therein used and in particular the land intended to be used for the provision of houses for the working classes, for streets and for open spaces. Before submitting the plan to the Minister notice thereof must be published in a local newspaper and served on owners, lessees and occupiers (except tenants for a month or any period less than a month) and on all statutory undertakers owning apparatus in the area.

Persons on whom notices are required to be served may lodge objections to the plan with the Minister and if such objections are made and not withdrawn the Minister must hold a local inquiry before approving the plan.

A re-development plan may be modified after approval, by making a new plan and obtaining the Minister's approval thereto (Housing Act, 1936, s. 35, p. 123, *post*).

Who will carry out the plan.—The local authority must either make arrangements with someone (*e.g.* the owners of the land in the area) to carry out the re-development plan or carry it out themselves (Housing Act, 1936, s. 36, p. 126, *post*).

The re-development provisions of the Housing Act, 1936, should be read in conjunction with the powers now granted to local authorities under s. 9 of the Town and Country Planning Act, 1944 (37 Halsbury's Statutes 434). The powers given under that enactment to deal with areas of bad lay out and obsolete development are very wide ; and para. 9 of the Fifth Schedule to that Act (37 Halsbury's Statutes 489) makes the provisions of Part III of the Housing Act, 1936 (relating to the purchase of land comprised in a clearance area), applicable, in appropriate instances, to houses acquired under s. 9 of the Town and Country Planning Act, 1944.

Appeal to the High Court against validity of re-development plan.—The Minister's approval of a re-development plan may be challenged on certain limited grounds in the High Court under the provisions of the Second Schedule to the Act, p. 329, *post*, and see "Appeals to High Court," p. 15, *ante*.

Purchase of land for purpose of re-development.—By s. 36 a local authority may purchase either by agreement or by means of a compulsory order confirmed by the Minister—

- (a) land in the re-development area ; and
- (b) any land outside that area which they may require for the purpose of providing accommodation for persons occupying premises within that area which they have purchased or agreed to purchase, or in respect of which they have submitted compulsory purchase orders.

Owners may object to a compulsory purchase order in the usual way, in which case there will be a local inquiry. A compulsory purchase order so made may be challenged in the High Court under the provisions of the Second Schedule to the Act ; but see the next paragraph.

Compulsory Purchase Orders under Part V of the Housing Act, 1936.—These orders are now subject to the provisions of the Acquisition of Land (Authorisation Procedure) Act, 1946. For the procedure relating to compulsory purchase orders under that Act and the provisions as to their validity see the First Schedule to that Act, p. 671, *post*. Land purchased under s. 36 of the 1936 Act for the provision of housing accommodation is to be deemed to be acquired under Part V.

Re-housing.—In so far as suitable accommodation is not available for persons who will be displaced from working-class houses in the carrying out of re-development in accordance with a re-development plan, it shall be the duty of the local authority to provide, or to secure the provision of, such accommodation in advance of the displacements from time to time becoming necessary as the re-development proceeds.

Improvement areas.—The power to declare an area to be an improvement area was repealed by s. 19 of the Housing Act, 1935, but when an area was so declared before the repeal became operative the provisions of ss. 38 and 39 of this Act (pp. 131, 133, *post*) set out the procedure to be followed.

(5) MEASURES TO SECURE THE ABATEMENT OF OVERCROWDING.

See the Ministry of Health Memorandum B, p. 608, *post*.

(6) FINANCIAL PROVISIONS.

The current financial provisions of the Housing Acts are now to be found in the Housing (Financial and Miscellaneous Provisions) Act, 1946 (p. 427, *post*). In effect, every house provided after the

3rd August, 1944, with the Minister's approval is entitled to a subsidy. The restriction of subsidies to houses provided for the re-housing of persons displaced by action taken under Parts II to IV of the principal Act no longer applies; and the subsidies are available for every house provided.

Exchequer Subsidies.—These subsidies are now payable for sixty years instead of forty as formerly :

- (1) The General Standard Amount of £16 10s. is payable in all cases save where some other standard amount is payable.
- (2) The Special Standard Amount of £25 10s. is payable :
 - (a) In the case of houses provided in county districts for the agricultural population; and
 - (b) In the case of houses provided in county districts where the rents are below average and the housing expenditure imposes an "undue burden."
- (3) In the case of flats provided on sites costing more than £1,500 per acre (as developed) the standard amounts are calculated as follows :

Where the cost of the site as developed per acre—	Standard Amount of Exchequer Contribution.
	£ s. d.
exceeds £1,400 but not £4,000	28 10 0
exceeds £4,000 but not £5,000	30 0 0
exceeds £5,000 but not £6,000	30 15 0
exceeds £6,000 but not £8,000	31 10 0
exceeds £8,000 but not £10,000	33 15 0
exceeds £10,000 but not £12,000	35 5 0
exceeds £12,000	<div style="display: inline-block; vertical-align: middle;"> 35 5 0, increased by £1 10s. for each additional £2,000 or part of £2,000 in the cost per acre. </div>

- (4) In the case of flats provided with lifts in blocks of at least four storeys the standard amounts payable in (3) above may in the Minister's discretion be increased in each case by an additional £7.
- (5) Where the cost of providing any house is increased substantially by expenditure to provide against subsidence the standard amount of the Exchequer contribution may be increased by a sum not exceeding £2.
- (6) In cases where :
 - (a) the average amount in the pound levied by the authority exceeds by a quarter the rates of such authorities generally; and
 - (b) the rate burden in respect of housing is half as much again as that of other authorities of the same class,
 the Minister may reduce the rate fund contribution payable by the authority and increase the Exchequer contribution accordingly.

County Council Contributions.—Wherever the special standard amount of Exchequer contribution is payable in respect of houses provided by a county district (borough, urban, or rural district) the County Council will make a contribution of £1 10s. for sixty years.

Rate Fund Contributions.—These contributions are also payable for sixty years.

- (1) Where the Exchequer contribution is the general standard amount of £16 10s. the authority's contribution from the rates will be £5 10s.
- (2) Where the Exchequer contribution is the special standard amount of £25 10s. the authority's contribution will be £1 10s.; but this will be supplemented by the County Council contribution of £1 10s.
- (3) In the case of flats provided on sites costing more than £1,500 per acre (as developed) the rate fund contributions are calculated as follows :

Where the cost of the site as developed per acre—	Rate Fund Contribution.
	£ s. d.
exceeds £1,400 but not £4,000	9 10 0
exceeds £4,000 but not £5,000	10 0 0
exceeds £5,000 but not £6,000	10 5 0
exceeds £6,000 but not £8,000	10 10 0
exceeds £8,000 but not £10,000	11 5 0
exceeds £10,000 but not £12,000	11 15 0
exceeds £12,000	{ 11 15 0 increased by 10s. for each additional £2,000 or part of £2,000 in the cost per acre.

- (4) In the case of flats provided with lifts in blocks of at least four storeys where the Exchequer contribution is increased in each case by £7 the rate fund contribution will be increased in each case by £3 10s.
- (5) Rate fund contributions may be reduced under the conditions set out in para. (6) under the heading Exchequer contributions (*supra*).

Flats.—Under s. 25 (2) of the 1946 Act (p. 460, *post*), for the purposes of that Act the term "house" includes a flat. The definition of a block of flats contained in s. 11 (1) of the Housing (Financial Provisions) Act, 1938 (p. 399, *post*), is adopted for the purposes of the 1946 Act; but s. 4 (2) of the latter Act permits the subsidies payable in respect of flats on expensive sites to be paid in respect of houses on such sites which are part of a mixed development of flats and houses subject to the Minister's direction.

Cost of the Site as developed.—This expression is defined by Part I of the First Schedule to the 1946 Act (p. 461, *post*) to mean

in the case of a site purchased by the authority under a housing enactment the expenditure incurred in purchase, or, in any other case, the value as certified by the Minister, plus any expenses incurred in the following connection :

- (a) Construction or widening of streets.
- (b) Construction of sewers.
- (c) Special works rendered necessary by the physical characteristics of the land.
- (d) Expenses approved by the Minister as properly forming part of the cost.

In Appendix II (c) to Circular 118/46 (p. 584, *post*) the Minister has intimated his approval of the following expenses under the heading (d) above.

- (i) Legal expenses and arbitration costs in connection with the purchase of the site ;
- (ii) Compensation and removal expenses properly paid to displaced tenants ;
- (iii) The net cost of clearing the site and stopping existing streets and services ;
- (iv) The cost of supervision and technical fees incurred in connection with the survey of the site and the construction of roads and sewers.

Site.—The determination of what constitutes a separate site is provided for in s. 4 (4) of the 1946 Act (p. 433, *post*) as follows :

- (a) Where two buildings are contiguous to each other, or are separated from each other by a street only, the two buildings shall, if the Minister thinks proper, be deemed to be on the same site ; and
- (b) where any land is purchased in connection with the provision of a building, and is to be used for the purposes of a new street to which the building will be contiguous, that land shall be deemed to form part of the site of the building.

(7) MISCELLANEOUS PROVISIONS.

Accounts.—See Memorandum E, p. 634, *post* ; and Circular 118/46, p. 584, *post*.

Acquisition of land.—A local authority may acquire by agreement or compulsorily (Housing Act, 1936, ss. 73 and 74, pp. 194, 195, *post*) :

- (1) Land (including any houses or other buildings thereon) required as a site for the erection of houses.
- (2) Houses which are, or may be made, suitable as dwelling-houses for the working classes, together with any lands occupied with such houses.

- (3) Other buildings which may be made suitable as dwelling-houses for the working classes, together with any lands occupied with such buildings.
- (4) Land for the purpose of the lease or sale of the land with a view to the erection thereon of dwelling-houses for the working classes by persons other than the local authority.
- (5) Land for the purpose of the lease or sale of any part of the land acquired with a view to the use thereof for purposes which in the opinion of the local authority are necessary or desirable for or incidental to the development of the land as a building estate, including the provision, maintenance, and improvement of houses and gardens, factories, workshops, places of worship, places of recreation, and other works or buildings for or for the convenience of persons belonging to the working classes and other persons.
- (6) Land for any of the above purposes notwithstanding that the land is not immediately required for those purposes.

A county council have power to acquire or appropriate land for the purpose of providing dwelling-houses for persons in their employ (Housing Act, 1936, s. 97, p. 228, *post*).

A local authority who have declared an area to be a clearance area may proceed to secure the clearance of the area by purchasing the land comprised in the area and themselves undertaking, or otherwise securing, the demolition of the buildings thereon (s. 25), in which case they may purchase the land by agreement or they may be authorised to purchase the land by means of a compulsory purchase order made and submitted to the Minister of Health and confirmed by him (Housing Act, 1936, s. 29, p. 112, *post*).

A local authority may also purchase by agreement, or be authorised to purchase compulsorily, land which is surrounded by a clearance area and the acquisition of which is reasonably necessary for the purpose of securing a cleared area of convenient shape and dimensions; also any adjoining land the acquisition of which is reasonably necessary for the satisfactory development or user of the cleared area.

Instead of purchasing the land comprised in a clearance area, a local authority may proceed to secure the clearance of the area by ordering the demolition of the buildings in the area (Housing Act, 1936, s. 25, p. 94, *post*), in which case they make a clearance order (*ibid.*, s. 26, and see "Clearance Orders," p. 14, *ante*). Where land has been cleared of buildings in accordance with the requirements of a clearance order, the local authority may, at any time after the expiration of eighteen months from the date on which the clearance order became operative, by resolution determine to purchase any part of the land which has not been, or is not in process of being, developed in accordance with plans approved by the local authority (Housing Act, 1936, s. 32, p. 118, *post*).

Where any person has appealed against a notice under Part II of the Housing Act, 1936, requiring the execution of works to a

house and the judge or court in allowing the appeal has found that the house cannot be rendered fit for human habitation at a reasonable expense the local authority may purchase that house by agreement or may be authorised to purchase it compulsorily by means of a compulsory purchase order. The Minister of Health, however, must not confirm the compulsory purchase order if the owner or mortgagee undertakes to carry out the works specified in the notice unless that person fails to carry out his undertaking (Housing Act, 1936, s. 16, p. 84, *post*).

When the Minister's approval of a re-development plan (see "Re-development Plan," p. 17, *ante*) has become operative, the local authority may, with the approval of the Minister, purchase by agreement, or may be authorised to purchase compulsorily by means of a compulsory order :

- (a) land in the re-development area (see p. 18, *ante*) ; and
- (b) any land outside that area which they may require for the purpose of providing accommodation for persons occupying premises within that area which they have purchased or agreed to purchase, or in respect of which they have submitted compulsory purchase orders (Housing Act, 1936, s. 36).

Acquisition of Land (Authorisation Procedure) Act, 1946.

—Where an authority acquire otherwise than under Part III the compulsory purchase order procedure is now to be found in the Acquisition of Land (Authorisation Procedure) Act, 1946, p. 653, *post*.

Compensation.—Compensation is payable on the basis of market value under the Acquisition of Land (Assessment of Compensation) Act, 1919, subject to the modifications contained in the First Schedule to the Act, where land (including buildings) is acquired :

- (1) Under s. 27 of the Housing Act, 1936, *i.e.* land adjoining or surrounded by a clearance area.
- (2) Under s. 32 of the Housing Act, 1936, *i.e.* land subject to a clearance order, which the owners have failed to re-develop within eighteen months from the date on which the order became operative.
- (3) Under s. 36 of the Housing Act, 1936, *i.e.* land purchased for re-development purposes, other than houses which are unfit for human habitation, and which are not capable at a reasonable expense of being rendered so fit.
- (4) Under s. 55 of the Housing Act, 1936, *i.e.* land purchased in order to secure the removal of an obstructive building.

Compensation is payable on the basis of site value only (see s. 40 of the Act), but otherwise in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919, where land, including buildings, is acquired.

- (1) Under s. 25 of the Act, as land included in a clearance area (unfit houses).

- (2) Under s. 36 of the Housing Act, 1936, as land purchased for re-development purposes, where the houses thereon are unfit for human habitation, and are not capable of being rendered so fit.
- (3) Under s. 42 of the Housing Act, 1936, special provision is made for the payment of compensation to owners whose houses are deemed unfit for human habitation but which have nevertheless been well maintained. (See notes to this section, p. 141, *post*.)

Compensation is payable on the basis of market value under the Acquisition of Land (Assessment of Compensation) Act, 1919, subject to the modifications contained in the Second Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946 (p. 680, *post*), where land including buildings is acquired under Part V of the Housing Act, 1936, *i.e.* land acquired for the provision of housing accommodation.

In every case until the 17th November, 1949, the compensation payable will be subject to the provisions contained in Part II of the Town and Country Planning Act, 1944 (p. 737, *post*), relating values to prices current at the 31st March, 1939.

Factories, public houses, gardens, recreation grounds, places of worship, etc.—A local authority may acquire land and then lease or sell it with a view to the use thereof for purposes which in the opinion of the local authority are necessary or desirable for or incidental to the development of the land as a building estate, including the provision of gardens, factories, workshops, places of worship, places of recreation, and other works or buildings for or for the convenience of persons belonging to the working classes and other persons.

Furniture—provision of, by local authorities.—Local authorities may fit out, furnish and supply any house provided by them with all requisite furniture, fittings and conveniences (Housing Act, 1936, s. 72 (2), p. 192, *post*).

Local inquiries.—See ss. 178 and 186 of the 1936 Act and notes thereto, pp. 304, 310, *post*.

Minister of Health.—Section 1 of the Poor Law Act, 1930 (12 Halsbury's Statutes 968), provides that the Minister of Health is charged with the direction and control of all matters relating to the administration of relief of the poor throughout England and Wales. While the Housing Acts do not contain a corresponding provision expressly making the Minister the Central Housing Authority, there can be no doubt whatever that he stands in the same relation to housing matters as he does in relation to Poor Law matters. He is the Central Housing Authority; he is responsible for the administration of the Housing Acts and for securing that local authorities

carry out their housing duties. By s. 178 of the Act, the Minister is empowered, for the purpose of the execution of his powers and duties under the Housing Acts, to cause such local inquiries to be held as he may think fit. By s. 179 of the Act, if it appears to the Minister that owing to density of population, or any other reason, it is expedient to inquire into the circumstances of any area with a view to determining whether any powers under the Act should be put into force in that area or not, the Minister may require the local authority to make a report to him containing such particulars as to the population of the district and other matters as he may direct, and the local authority shall comply with the requirement of the Minister. In *Offer v. Minister of Health*, [1936] 1 K. B. 40; 99 J. P. 347; Digest Supp., both SWIFT, J., and the Court of Appeal held that the Minister was entitled to give advice to local authorities regarding the exercise of their powers under the Housing Acts.

In confirming orders affecting rights of property such as clearance orders and compulsory purchase orders under the provisions of the Act relating to clearance areas, it has been held that the Minister must act "quasi-judicially," and that he must accordingly observe the rules of conduct laid down by Lord LOREBURN in *Board of Education v. Rice*, [1911] A. C. 179, at p. 182 (42 Digest 614, 141), that is to say,

"... they must act in good faith and fairly listen to both sides, for that is a duty lying upon everyone who decides anything. But I do not think they are bound to treat such a question as though it were a trial. They have no power to administer an oath, and need not examine witnesses. They can obtain information in any way they think best, always giving a fair opportunity to those who are parties in the controversy for correcting or contradicting any relevant statement prejudicial to their view."

Where public departments are given quasi-judicial duties to perform as well as administrative duties, the obligation to carry out their quasi-judicial duties in strict accordance with natural justice must always be considered in the light of their administrative duties (*Horn v. Minister of Health*, [1937] 1 K. B. 164; [1936] 2 All E. R. 1299; 100 J. P. 463, C. A.; Digest Supp.)

Rent and Mortgage Interest Restrictions Acts.—By s. 156 of the 1936 Act it is provided that :

(1) " Nothing in the Rent and Mortgage Interest Restrictions Acts, 1920 to 1933, as amended by any subsequent enactment shall be deemed to affect the provisions of this Act relating to the obtaining of possession of a house with respect to which a demolition order or a clearance order has been made, or to prevent possession being obtained—

" (a) of any house possession of which is required for the purpose
 " of enabling a local authority to exercise their powers under
 " any enactment relating to the housing of the working
 " classes ;

- “(b) of any house possession of which is required for the purpose
“ of securing compliance with any byelaws made for the
“ prevention of overcrowding ;
- “(c) of any house possession of which is required for the purpose
“ of enabling re-development in accordance with a re-develop-
“ ment plan to be proceeded with ;
- “(d) of any premises by any owner thereof in a case where an
“ undertaking has been given under Part II of this Act that
“ these premises shall not be used for human habitation ;
- “(e) of any part of a building or underground room by any owner
“ thereof in a case where a closing order is in force in respect
“ thereof.”

By s. 65 it is provided that :

- “(1) Where a dwelling-house is overcrowded in such circum-
“ stances as to render the occupier thereof guilty of an offence,
“ nothing in the Rent and Mortgage Interest Restrictions Acts,
“ 1920 to 1933, shall prevent the landlord from obtaining possession
“ of the house.
- “(2) Where a landlord comes into possession of a house by virtue
“ only of the provisions of the foregoing subsection then, notwith-
“ standing anything in section 2 of the Rent and Mortgage Interest
“ Restrictions Act, 1923, the Rent and Mortgage Interest Re-
“ strictions Acts, 1920 to 1933, if applicable to the house, shall not
“ cease to apply thereto by reason only of the fact that the landlord
“ comes into possession of the house.”

Rent books.—Section 4 of the 1936 Act provides that :

“ In the case of any house which is occupied or is of a type
“ suitable for occupation by persons of the working classes, the
“ name and address of the medical officer of health for the district
“ and of the landlord or other person who is directly responsible for
“ keeping the house in all respects reasonably fit for human habita-
“ tion shall be inscribed in the rent-book, or, where a rent-book is
“ not used, shall be delivered in writing to the tenant at the com-
“ mencement of the tenancy and before any rent is demanded or
“ collected ; and, where there has been any failure to comply with
“ the provisions of this section in respect of any house, any person
“ who while the default continues demands or collects any rent in
“ respect of the house as aforesaid shall on summary conviction be
“ liable to a fine not exceeding forty shillings.”

Section 62 of the Act, which reproduces s. 6 of the 1935 Act (repealed), provides that, as from six months after the appointed day (*i.e.* the day appointed for the purpose of this section (s. 62)), all rent books or similar documents relating to working-class houses must contain a summary in a form prescribed by the Minister of those provisions of the Act relating to overcrowding which affect occupiers, together with a statement showing “ the permitted number of persons ” in relation to that house. A landlord who fails to comply with this requirement is liable on prosecution by the local authority to a fine of £10. To ensure compliance with these provisions, local authorities are empowered by s. 62 to call for the

production of rent books and any person who fails to produce the rent book within seven days is liable to a fine of £2. The form of summary has been prescribed by the Minister (see p. 548, *post*).

The Rent and Mortgage Interest Restrictions Act, 1939 (32 Halsbury's Statutes 971), does not amend s. 165 of the Housing Act, 1936, and s. 3 (2) (c) of the 1939 Act provides that the Rent Acts shall not by reason of that section apply to any dwelling in respect of which a local authority are required to keep a Housing Revenue Account.

CHAPTER 3

INQUIRIES FOR THE PURPOSE OF THE HOUSING ACTS

A PRACTICAL NOTE.

BEFORE confirming a clearance order, a compulsory purchase order, or before approving a re-development plan, the Minister *must*, if objections are made and not withdrawn, hold a public local inquiry. By s. 41 (1) it is provided that, if a person upon whom notice of a clearance order or compulsory purchase order made under Part III of the Act objects to the order on the ground that a building included in the order is not unfit for human habitation and the objection is not withdrawn, the Minister cannot hold an inquiry with respect thereto until the expiration of fourteen days after it has been shown to his satisfaction that the local authority have served upon the objector a notice in writing stating what facts they allege as their principal grounds for being satisfied that the building is so unfit.

Apart from this statutory obligation the Minister, in practice usually informs objectors in writing, some three weeks beforehand, of the date, time and place of the inquiry. In addition, a printed notice is usually affixed to some premises in the area and on the notice board at the local authority's offices.

Position before objection made.—Until an objection is made to any such order as is mentioned above, the Minister, it has been held, is acting in an administrative and not in a judicial capacity. In *Frost v. Minister of Health*, [1935] 1 K. B. 286; 99 J. P. 87; Digest Supp., approved by the Court of Appeal in *Offer v. Minister of Health*, [1936] 1 K. B. 40; 99 J. P. 347; Digest Supp., it was held that before objections were made the Minister could advise a local authority on matters relating to the exercise of their powers in respect of an area with regard to which he might later have to hold an inquiry. In the latter case GREER, L.J., discussing the advice given by the Minister's representative, said, at p. 47:

“ That power [under s. 117 of the Housing Act, 1925; 13 Halsbury's Statutes 1065] is surely not confined to asking for a report without, first of all, making some investigation whether or not it is a proper case for a report, or making an investigation after the report has been made in order to see whether or not further action should be taken? To my mind, Parliament intended that

“ these semi-official duties should be conferred upon a Minister who naturally will have some knowledge of the matter before he begins his semi-judicial inquiry, and will possibly have had communications with the local authority before what I have called the ‘ lis ’ is joined between the objecting property owners and the local authority, and will therefore have some knowledge and have given some opinion about the matter.”

Person appointed to hold inquiry.—The person appointed to hold the inquiry is invariably an inspector of the Ministry of Health. He always possesses a technical qualification, *e.g.* chartered architect, surveyor or engineer. In addition he is familiar with the provisions of the Housing Act, and is acquainted with the rules of evidence.

Power of inspector holding inquiry.—The statutory provisions governing local inquiries under the Housing Act are contained in the Housing Act, 1936, ss. 43, 178 and 186, the First and Third Schedules, pp. 144, 304, 310, 321, 331, *post*; the Local Government Act, 1933, s. 290, p. 305, *post*; the Public Health Act, 1936, s. 318 (29 Halsbury's Statutes 523); and as respects London, the Public Health (London) Act, 1936, s. 297 (30 Halsbury's Statutes 599).

Section 290 of the Local Government Act, 1933, does not apply to London. The provisions relating to local inquiries in London are to be found in s. 189 of the London Government Act, 1939 (32 Halsbury's Statutes 344). See, further, the notes to s. 178.

Conduct of inquiries.—An inspector in holding inquiries is not bound by the strict rules of evidence, but the Ministry, it is understood, generally instruct their inspectors as far as the nature of the circumstances allow to observe the rules of evidence.

The position of a government department in relation to the holding of inquiries is defined by Lord LOREBURN in the case of *Board of Education v. Rice*, [1911] A. C. 179; 75 J. P. 393; 42 Digest 614, 141, in the following words, at p. 182:

“ Comparatively recent statutes have extended, if they have not originated, the practice of imposing upon departments or officers of State, the duty of deciding or determining questions of various kinds. In the present instance, as in many others, what comes for determination is sometimes a matter to be settled by discretion, involving no law. It will, I suppose, usually be of an administrative kind; but sometimes it will involve matters of law as well as matters of fact or even depend on matters of law alone. In such cases the Board of Education will have to ascertain the law and also to ascertain the facts. I need not add that in doing so they must act in good faith and listen fairly to both sides, for that is a duty lying upon everyone who decides anything. But I do not think they are bound to treat such question as though it were a trial. They can obtain information in any way they think best, always giving a fair opportunity to those who are parties in the controversy for correcting or contradicting any relevant statement prejudicial to their view.”

The principles there laid down have been further elucidated by subsequent decisions. In *Errington v. Minister of Health*, [1935] 1 K. B. 249; Digest Supp., it was held that after objections have been taken the Minister must not hear one party in the absence of the other on any of the matters which are in dispute. In the course of his judgment, at p. 264, GREER, L.J., said :

" Now it seems to me that if, as I think, the Ministry were acting
 " in a quasi-judicial capacity they were doing what a semi-judicial
 " body cannot do, namely, hearing evidence from one side in the
 " absence of the other side, and viewing the property and forming
 " their own views about the property without giving the owners of
 " the property the opportunity of arguing that the views which the
 " Ministry were inclined to take were such as could be readily dealt
 " with by means of repairs and alterations to the buildings."

This is so even where no inquiry need be held at all, see : *Re Mow-sley* (No. 1) *Compulsory Purchase Order*, 1944 (1946), 175 L. T. 101; *sub nom. Stafford v. Minister of Health*, 110 J. P. 210. In that case, under s. 2 of the Housing (Temporary Provisions) Act, 1944, p. 402, *post*), the Minister was entitled to dispense with holding an inquiry. The Minister sent the grounds of objection received from the objector to the acquiring authority and received the authority's remarks thereon without giving the objector an opportunity of reply. The order was quashed.

It appears, however, from the case of *Offer v. Minister of Health*, [1936] 1 K. B. 40; Digest Supp., that before objection is made the Minister is not acting in a judicial capacity and can give advice to a local authority with regard to a subject-matter in which he may afterwards have to adjudicate. Referring to the advice given on that occasion, GREER, L.J. said in that case, at p. 48 :

" I cannot conceive what objection can be taken to that statement
 " having been made by this inspector from the Ministry of Health
 " to the Corporation. It did not in any way bind either that
 " gentleman or any gentleman who might hold the inquiry, or the
 " Minister of Health, to any opinion upon the question, which might
 " ultimately have to be determined, whether certain objections, if
 " made by the owners, ought to be given effect to, and the scheme,
 " therefore, refused confirmation. It was in no way inconsistent
 " with the duty which would have to be performed by the Minister
 " when he came to exercise his powers of saying whether he would or
 " would not confirm the order which was made by the local authority.
 " I cannot conceive, therefore, the slightest ground for saying that
 " what had been done in any way prejudiced the decision which was
 " finally made by the Minister of Health on the report of the inspector
 " and after full consideration of the objections that had been made."

The inspector, it appears, can only inquire into the facts as they exist at the time of the inquiry whatever may have been the position at the time the order was made (*Marriott v. Minister of Health* (1935), 100 J. P. 41 (affirmed on appeal, [1937] 1 K. B. 128; [1936] 2 All E. R. 865, C.A.; Digest Supp.)). In that case SWIFT, J., said at p. 53 :

"I do not see how an order can be made giving the land to the corporation for the purpose of securing the clearance, after the clearance has been effected. It is suggested on behalf of the Minister that, once the clearance order and the compulsory purchase order are made, they are in some way or other effective quite irrespective of what the owner may do to his property before the order finally becomes confirmed. I cannot think that this is so, and I do not think that the Minister's order confirming the order of June 4 is retrospective. If it were, any order which I make to-day would be retrospective, but I can make no order to-day saying that these buildings, which are now pulled down, are restored to the condition in which they were on June 4, and therefore that, for the purpose of demolishing them, the corporation may buy the applicant's land. Nor, in my opinion, could the Minister make such an order. From the minute the houses were pulled down, nobody could, in my opinion, make an order compelling the applicant to part with the site."

Procedure.—As a general rule the procedure is as follows :

(1) Local authority's representative reads notice convening inquiry.

(2) Names of persons attending and desirous of taking part in the inquiry are taken.

(3) Local authority's representative opens the case in support of the Order, then calls his witnesses, each of whom may be cross-examined by objectors or their representatives.

(4) Objectors' cases are taken in turn. The objector or his representatives may open his case, then call his witnesses, who may be cross-examined by the local authority's representative. Normally, the better course will be for the objector to first call his witnesses and to address the inspector at the close of the case.

(5) Local authority's representative is allowed to reply to each objector's case; he may, however, wait until the conclusion of all cases in opposition, then reply generally, if the inquiry is a short one, but if the inquiry is likely to take some time, it is better to reply on each case so that the objector may be released with the assurance that nothing will be said against his interest in his absence.

The local authority's case.—Whoever appears for the local authority will of course decide upon his own method of presenting the authority's case. The following observations may, however, be of some help to clerks to local authorities appearing on behalf of their councils.

(1) See that a map of the area being dealt with is exhibited in the room and mention the fact.

(2) If a shorthand note is being taken for the use of the inspector, mention the fact, also that if owners should wish to be supplied with a copy of the note or any parts of it the same will be supplied on payment of a reasonable charge and that the transcript will be open to inspection.

(3) State that the Order in question is on the table and may be inspected by anyone wishing to see it.

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(5) Local authority's representative is allowed to reply to each objector's case ; he may, however, wait until the conclusion of all cases in opposition, then reply generally, if the inquiry is a short one, but if the inquiry is likely to take some time, it is better to reply on each case so that the objector may be released with the assurance that nothing will be said against his interest in his absence.

The local authority's case.—Whoever appears for the local authority will of course decide upon his own method of presenting the authority's case. The following observations may, however, be of some help to clerks to local authorities appearing on behalf of their councils.

(1) See that a map of the area being dealt with is exhibited in the room and mention the fact.

(2) If a shorthand note is being taken for the use of the inspector, mention the fact, also that if owners should wish to be supplied with a copy of the note or any parts of it the same will be supplied on payment of a reasonable charge and that the transcript will be open to inspection.

(3) State that the Order in question is on the table and may be inspected by anyone wishing to see it.

(4) State briefly the effect or nature of the Order and indicate by reference to the map exhibited the properties involved.

(5) State briefly the principal defects which exist in the properties included in the area, *e.g.*

- (a) The streets are narrow.
- (b) The properties are badly arranged, causing access of light and air to be impeded.
- (c) The properties generally speaking are old, worn out, dilapidated and beyond repair.
- (d) The properties by reason of disrepair and sanitary defects fall short of the provision of byelaws in force in the district and by the general standard of working class accommodation in the district.
- (e) Refer briefly to the objections which have been received.
- (f) Mention the names and official positions of the witnesses who will be called to support the authority's case ; then
- (g) Call witnesses in turn.

Local authority's evidence.—It is now obligatory on local authorities to serve on objectors, at least fourteen days before the inquiry is held, a statement in writing of the principal grounds on which they allege the houses are unfit for human habitation. See s. 41 (1). This is of great assistance to objectors and materially assists in speeding up the inquiry.

The authority's expert witness will usually prefer to deal with the area generally at the outset of his evidence and such general statement should summarise the principal defects which exist in the area and conclude by stating that in his (the expert's) opinion all the dwelling houses in the area are unfit for human habitation by reason of disrepair or sanitary defects and are also dangerous or injurious to the health of the inhabitants by reason of their bad arrangement or the narrowness or bad arrangement of the streets (where this is the case) ; and that the " other buildings " are for like reason dangerous or injurious to the health of the inhabitants of the area. Such evidence establishes a *prima facie* case for the Order.

Where general evidence is offered, the inspector frequently allows general cross-examination.

At the conclusion of the general evidence the authority's witnesses will then deal specifically with the properties of the objector whose case is being taken.

Sometimes it will be necessary to deal with an objector's properties building by building, but frequently a group may exhibit similar or common defects and may be dealt with as a group, defects confined to any particular house being pointed out.

Authorities are strongly advised to concentrate on the main defects which exist, particularly where a large area is being dealt with.

Authorities are referred to note (h) to s. 25 of the Act (p. 99, *post*) for summary of main defects rendering a house unfit for human habitation.

For purposes of cross-examination, the authority's expert witnesses should be armed with the departmental reports containing full details of defects.

Where the inquiry is likely to be a long one, it is often convenient for the Medical Officer of Health to give general evidence regarding the area on the lines above indicated, and to call the chief sanitary inspector to give the detailed evidence.

Where the inquiry relates to the compulsory purchase of land for the purposes of Part V of the Housing Act, 1936 (p. 191, *post*), the question in issue is not whether houses are or are not unfit for human habitation but whether the local authority ought to be authorised to purchase the land included in the Order compulsorily. Whoever opens the case for the local authority should state the purpose for which the land is required and why the land in question has been selected for that purpose. Reference should be made to the objections and the Council's answer to these objections briefly stated. In certain exceptional cases it may be necessary to deal with an objection at some length, as for instance, where the Order has aroused a great deal of local opposition and public interest.

The law relating to expert evidence.—The following notes on expert evidence are taken from Powell on Evidence (10th ed., p. 39).

"Evidence of Experts.

"An expert witness is one who has devoted time and study to a special branch of learning, and thus is specially skilled on those points on which he is asked to state his opinion. His evidence on such points is admissible to enable the tribunal to come to a satisfactory conclusion. An expert may be called to answer questions on any matters of science, art, medicine, architecture, handwriting, valuations, or foreign law—indeed, any matter on which special skill or learning is necessary in order that a reliable opinion may be formed. He need not be a paid professional expert who makes a living by giving such evidence, but he must have devoted sufficient time and study to the subject to make his evidence trustworthy. The judge decides on the competency of an expert witness; the jury decides the weight of his evidence.

"The evidence of an expert witness differs from that of an ordinary witness in the following respects:

"(a) He can give his opinion, not merely state what took place.
 "(b) He can detail experiments he made even behind the back of the other party.

"(c) He can cite books of admitted authority.

"(d) He can cite other cases and reports of other transactions throwing light on the fact in issue, *e.g.*, for the purpose of showing similarity in symptoms or in results from certain causes. From anyone else such statements would be inadmissible.

"A medical expert may repeat what a patient said as to his symptoms, but not what he said as to the facts of the case. An expert is fallible, like all other witnesses, and the real value of his evidence consists in the logical inferences which he draws from what he has himself observed, not from what he merely surmises

"or has been told by others. Therefore, in cross-examining him, it is advisable to get at the grounds on which he bases his opinion. Moreover, the evidence of experts must be received with caution, because they are sometimes apt to make themselves partisans and thus diminish the value of their testimony."

Objector's evidence.—Evidence on behalf of objectors should be directed to establishing :

(1) That the houses are not by reason of disrepair or sanitary defects unfit for human habitation, or if they are at present unfit, they can be made fit at a reasonable expense which the objector is willing to incur.

(In the latter event, a schedule of works which the objector is willing to carry out should be put in, together with a signed undertaking that in the event of the Minister refusing to permit the properties in question to be included in the Order, the works specified will be carried out forthwith.)

(2) That the dwelling houses or "other buildings" are not dangerous or injurious to health by reason of bad arrangement or narrowness or bad arrangement of the streets.

On the question of unfitness for human habitation, objectors are referred to note (h) to s. 25 of the Act (p. 99, *post*). The points there mentioned are the points which will have to be faced at the inquiry. Where a house falls short in respect of any of these points, a schedule of works and undertaking to carry them out should be put in. The objectors should be prepared with an estimate of the cost of such works.

It is suggested that whoever puts the objector's case should :

- (1) Bring out every possible point in favour of the property ;
- (2) Establish if possible that the alleged defects are either non-existent or have been exaggerated ;
- (3) That the owner is ready and willing to remedy such defects as are admitted to exist.

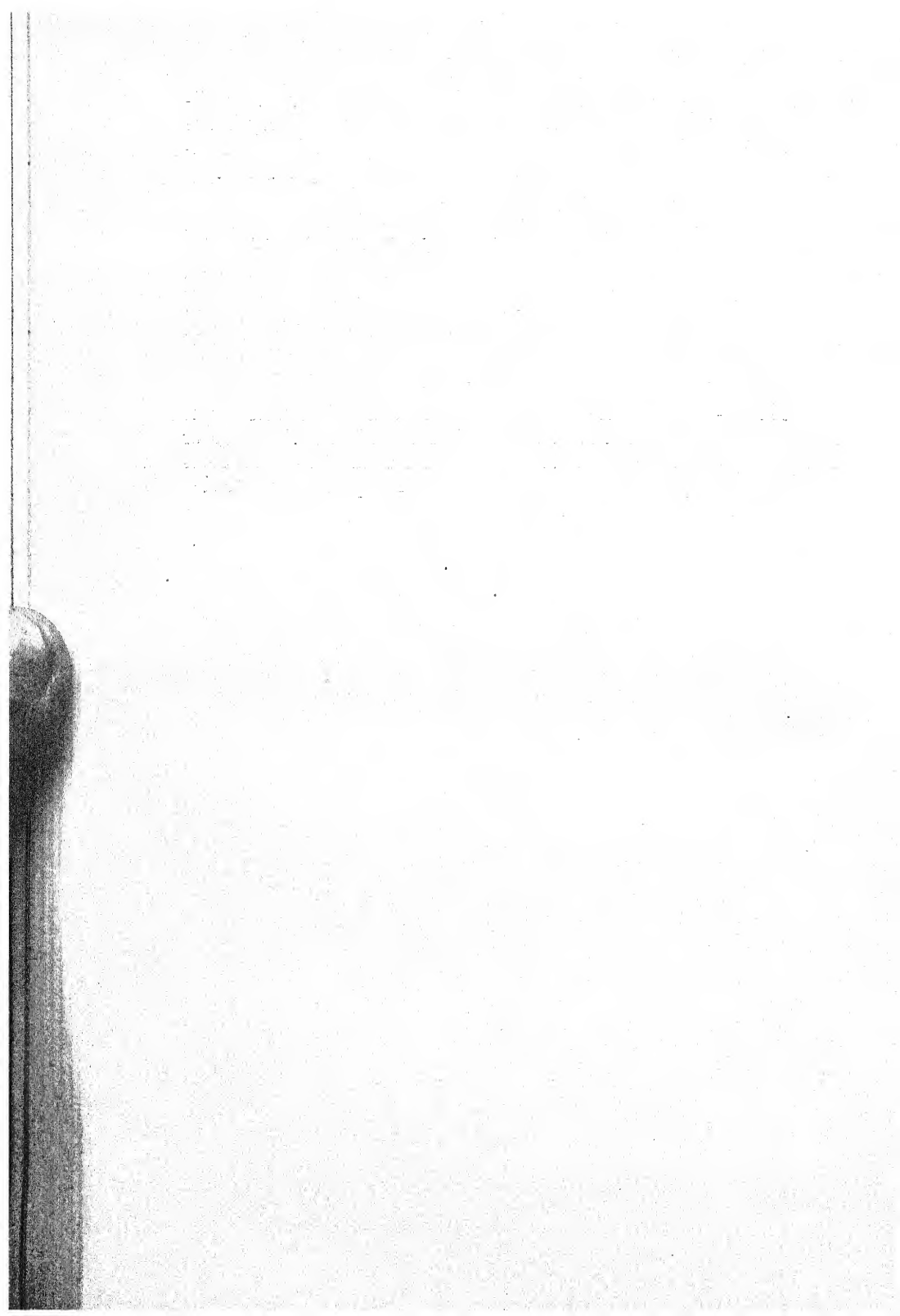
Where the inquiry relates to the compulsory purchase of land for the purpose of Part V of the Housing Act, 1936, evidence on behalf of an objector will, of course, be directed to establishing that there are good reasons why the compulsory purchase of his land should not be authorised. These reasons will have been foreshadowed in the notice of objection to the Order (see p. 673, *post*). It is very seldom that opposition to an ordinary compulsory purchase order succeeds, and in those cases where it does succeed it is usually because the circumstances are such that it is contrary to the public interest that the land should be acquired and used for the purpose proposed by the authority.

Inspector's view of the property.—The inspector invariably visits the area after the close of the inquiry. He invites owners or their representatives to accompany him, also a representative of the local authority. Further discussion on the site is not as a rule desired by the inspector.

In view of the provisions regarding compensation for well-maintained houses (s. 42, p. 140, *post*) he now inspects every house alleged to be unfit for human habitation and pays particular attention to any points regarding which there has been any controversy at the inquiry.

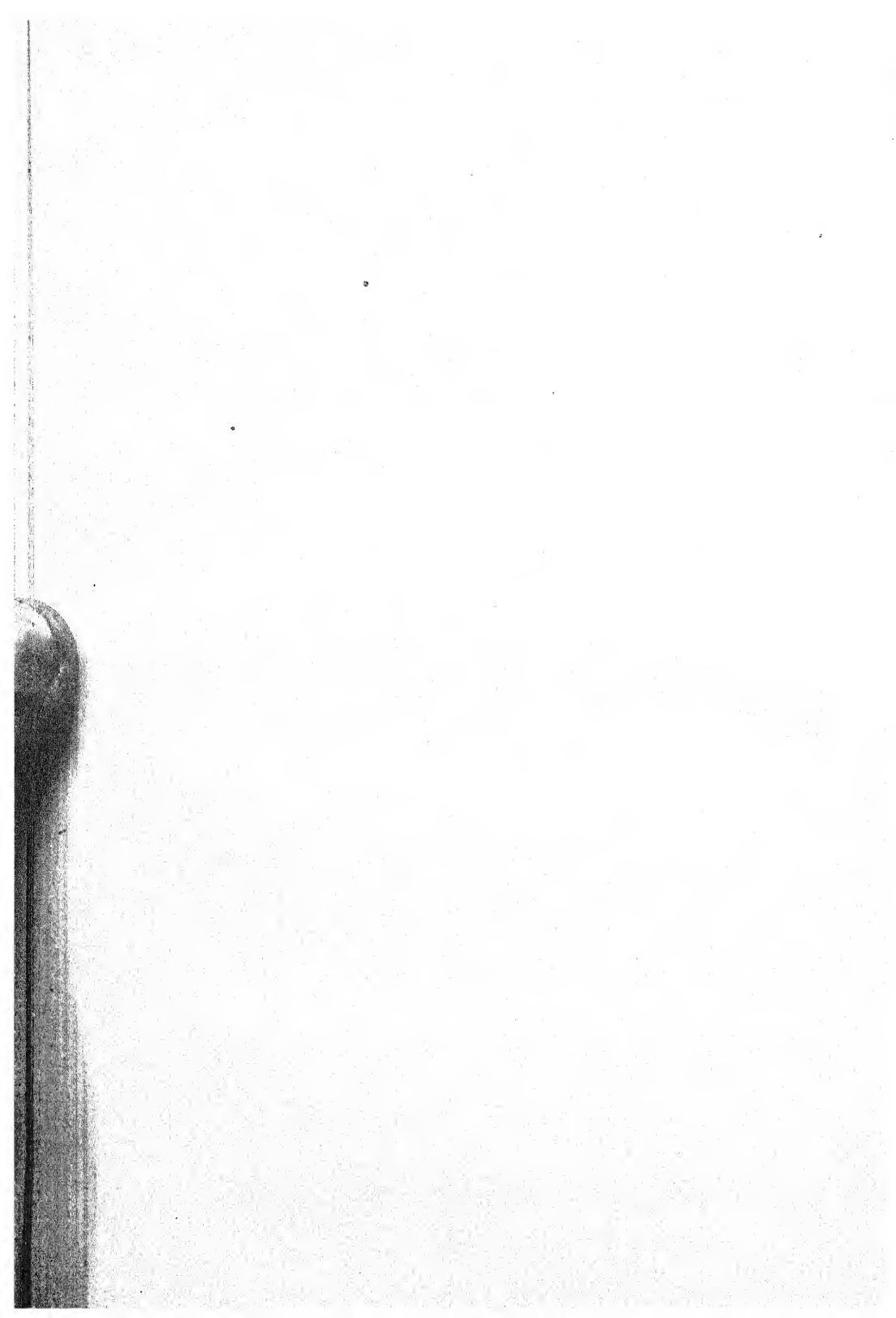
Inspector's report.—On his return to London, the inspector writes his report from his notes and this report is addressed to the Minister and is considered by some officer of the Ministry specially appointed by the Minister for the purpose. It is understood that in some cases the matter is dealt with by the Minister himself, but in every case the Minister accepts responsibility for his officer's decision, which is made in the name of the Minister.

Costs.—The Minister has power to make such Orders as he thinks fit in favour of any owner of any lands included in a clearance or compulsory purchase Order for the allowance of the reasonable costs and expenses properly incurred by him in opposing such order (Housing Act, 1936, s. 43, p. 143, *post*).



PART 2

THE HOUSING ACT, 1936



THE HOUSING ACT, 1936

[26 Geo. 5. & 1 Edw. 8. Ch. 51.]

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An Act to consolidate the Housing Acts, 1925 to 1935, and certain other enactments relating to housing.

[31st July 1936.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

NOTES

General Note.—This Act repealed and consolidated the general law relating to housing contained in the Acts enumerated in the Twelfth Schedule. By s. 187 the powers given by this Act are to be deemed to be in addition to and not in derogation of any other powers conferred by Act of Parliament, law or custom, and such other powers may be exercised in the same manner "as if this Act had not been passed." By s. 189 (1) nothing in the Act is to affect "any order, byelaw, regulation or plan made, charge effected, undertaking, notice, approval, certificate, direction or determination given or

other thing done under any enactment repealed by this Act or by the Housing Act, 1925, but any such order, etc., shall, if in force at the commencement of this Act, continue in force and shall, so far as it could have been made, effected, given or done under this Act, have effect as if made, effected, given or done under the corresponding provisions of this Act."

Short Title.—This Act may be cited as the Housing Act, 1936 (s. 191 (1)).

Extent.—This Act does not extend to Scotland or Northern Ireland (s. 191 (3)).

Commencement.—This Act came into operation 1st January 1937.

Interpretation.—See s. 188 (1), p. 311, *post*.

PART I.—LOCAL AUTHORITIES FOR PURPOSES OF THIS ACT.

1. Local authorities for purposes of this Act.—

(1) Subject to the provisions of this Act, the local authority for the purposes of this Act as respects England and Wales other than the administrative county of London shall be the council of the borough, urban district or rural district.

(2) Subject to the provisions of this Act (a), the local authority (b) for the purposes of this Act as respects the administrative county of London shall be,—

(a) as respects the City of London, the Common Council ;

(b) as respects the administrative county of London (c) other than the City of London, the metropolitan borough council or the London County Council as hereinafter provided.

NOTES TO SECTION 1

General Note.—Sub-s. (1) reproduces the definitions contained in s. 80 (1) (c) of the Act of 1925, ss. 15, 24 (c) and 25 (3) of the Act of 1930, ss. 21 (1) (c), 57 (1) (c) and 59 (1) of the Act of 1935 ; sub-s. (2) reproduces s. 80 (1) (a) of the Act of 1925, ss. 16 (2), 24 (a) and 31 (2) of the Act of 1930 and ss. 21 (1) (a), 57 (1) (a) and 59 (1) of the Act of 1935.

(a) **Subject to the provisions of this Act.**—This sub-section is qualified by the following provisions :

(a) Sections 34–36 which relate to re-development areas apply only to urban areas, viz. to councils of county boroughs, non-county boroughs and urban districts.

(b) Section 38, which relates to improvement areas, applies only to local authorities who passed resolutions under the repealed s. 7 of the Act of 1930.

(c) The following provisions apply only to London : ss. 8, 24, 33, 37, 39, 48, 53, 56, 69, 70, 103, 104, 117, 119, 134, 175, 181–186 and the Tenth Schedule.

(d) The following provisions apply only to rural district councils : ss. 88, 89, 108, 115, 116 and 169.

County Councils, other than the London County Council, are not authorities for the purposes of this Act, but powers are conferred under the following provisions : ss. 88, 89, 91, 93, 97, 110, 115, 120–124, 153, 169–171.

(b) **Local authority.**—See also s. 188 (2), p. 314, *post*.

(c) **Local authorities for the administrative county of London.**—The Act makes specific provision for the authorities responsible in the administrative county (other than the City) for the purpose of operating the following parts of the Act :

- s. 8, p. 61, *post* (bye-laws as to working-class houses).
- s. 24, p. 94, *post* (for the purpose of Part II, relating to the repair, maintenance and sanitary condition of houses).
- s. 33, p. 119, *post* (for clearance areas).
- s. 37, p. 129, *post* (for redevelopment areas).
- s. 39, p. 133, *post* (for improvement areas).
- s. 53, p. 162, *post* (for redevelopment and reconditioning by owners).
- s. 56, p. 168, *post* (for demolition of obstructive buildings).
- s. 69, p. 187, *post* (for abatement of overcrowding).
- s. 103, p. 230, *post* (provision of housing accommodation for the working classes).
- s. 117, p. 249, *post* (expenses).
- s. 119, p. 251, *post* (borrowing powers).
- s. 134, and Tenth Schedule, pp. 266, 346, *post* (financial provisions).
- s. 175, p. 301, *post* (default powers).
- ss. 181–186, p. 306 *et seq.*, *post* (miscellaneous provisions).

PART II.—PROVISIONS FOR SECURING THE REPAIR, MAINTENANCE AND SANITARY CONDITION OF HOUSES.

Obligation of Lessors of Small Houses.

2. Conditions to be implied on the letting of small houses.—(1) In any contract for letting for human habitation a house (a) at a rent (b) not exceeding—

- (a) in the case of a house situate in the administrative county of London, forty pounds ;
- (b) in the case of a house situate elsewhere, twenty-six pounds ;

there shall, notwithstanding any stipulation to the contrary (c), be implied a condition (d) that the house is at the commencement of the tenancy, and an undertaking that the house will be kept by the landlord during the tenancy, in all respects reasonably fit for human habitation (e) :

Provided that the condition and undertaking aforesaid shall not be implied when a house is let for a term of not less than three years upon the terms that it be put by the lessee into a condition reasonably fit for human habitation, and the lease is not determinable at the option of either party before the expiration of three years.

(2) The landlord, or any person authorised by him in writing, may at reasonable times of the day, on giving twenty-four hours' notice in writing to the tenant or

occupier, enter (f) any premises to which this section applies for the purpose of viewing the state and condition thereof.

(3) In this section the expression "landlord" (g) means any person who lets for human habitation to a tenant any house under any contract referred to in this section (h), and includes his successors in title, and the expression "house" includes part of a house.

(4) This section applies to a contract made either before or after the commencement of this Act :

Provided that, in the case of a house let at a rent exceeding sixteen pounds and situate elsewhere than in the administrative county of London or a borough or an urban district, being a borough or district which at the date of the contract had according to the last published census a population of fifty thousand or upwards, this section shall not apply if the contract was made before the thirty-first day of July, nineteen hundred and twenty-three.

NOTES TO SECTION 2

General Note.—This section was first enacted in the Housing of the Working Classes Act, 1885, s. 12, was reproduced in the Housing of the Working Classes Act, 1890, s. 75, and amended by the Housing of the Working Classes Act, 1903, s. 12, the Housing, Town Planning, etc., Act, 1909, ss. 14 and 15, and the Housing, etc., Act, 1923, s. 10. As so amended it was reproduced in the Act of 1925, s. 1, and further amended by the Housing Act, 1935, s. 98, and Part II of the Sixth Schedule.

(a) **House.**—See s. 188 (1) and notes thereto, p. 311, *post*.

(b) **Rent.**—The meaning of this term depends on the contract between the landlord and tenant. Where the house is let exclusive of rates the rent will be the sum paid to the landlord ; similarly where the account paid is inclusive, that sum will be the rent for the purposes of this section. *Rousou v. Photi, Gort Estates Co., Third Party*, [1940] 2 K. B. 379 ; [1940] 2 All E. R. 528 ; 104 J. P. 300 ; 2nd Digest Supp.

(c) **"Notwithstanding any stipulation to the contrary."**—These words, it seems, would prevent any contracting out of the section and also prevent the landlord relying on any express covenant to repair other than a covenant in excess of the standard laid down by the section (see proviso to this sub-section).

(d) **Common law rule.**—The common law rule is that where a landlord lets an unfurnished house there is no implied contract by him that it is fit for habitation : *Hart v. Windsor* (1844), 12 M. & W. 68 ; 31 Digest 127, 2613 ; *Bartram v. Aldous* (1886), 2 T. L. R. 237 ; 31 Digest 176, 3083 ; *Lane v. Cox*, [1897] 1 Q. B. 415 ; 31 Digest 179, 3120. The intending tenant is presumed to make his own inquiries as to the condition of the house and, in the absence of special stipulation, he takes the house as it stands : *Chappell v. Gregory* (1863), 34 Beav. 250 ; 31 Digest 178, 3117.

(e) **Effect of undertaking.**—The effect of this provision is that a duty is cast upon the landlord throughout the tenancy to execute such repairs as are necessary to keep the premises "in all respects reasonably fit for human habitation." "The standard of repair required . . . is naturally for those purposes a humble standard. It is only required that the place must be decently fit for human beings to live in" : *Jones v. Geen*, [1925]

1 K. B. 659, *per* SALTER, J., at p. 668; 31 Digest 315, 4568; but "if the state of repair is such that by ordinary user damage may naturally be caused to the occupier, either in respect of personal injury to life or limb or injury to health, then the house is not in all respects fit for human habitation": *per* Lord ATKIN, *Summers v. Salford Corporation*, [1943] A. C. 283, at p. 289; [1943] 1 All E. R. 68; 107 J. P. 35; 2nd Digest Supp.

It has been held that the provision does not impose on the lessor of part of a house an obligation to keep a common flight of stairs in repair: *Dunster v. Hollis*, [1918] 2 K. B. 795; 31 Digest 100, 2385.

There is a marked difference between the state of repair comprised in the words "reasonably fit for human habitation" and that contemplated by the words "the whole of the repairs" in s. 2 (d) (i) of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920 (10 Halsbury's Statutes 333): *Jones v. Geen*, *supra*. The power of the Court to relieve a lessee from liability for internal decorative repairs on the ground that the notice is unreasonable does not apply to this liability: Law of Property Act, 1925, s. 147 (2) (iii) (15 Halsbury's Statutes 31).

The whole house need not be unfit for human habitation: cf. *Hall v. Manchester Corporation* (1915), 79 J. P. 385; 38 Digest 212, 470. The duty of the landlord is to keep the house in all respects fit for human habitation.

As to power of local authority to require repairs, see Housing Act, 1936, s. 9, p. 62, *post*, and for power of authority to execute such repairs in default of owner, see s. 10, p. 67, *post*, and see the Rent and Mortgage Interest Restrictions Act, 1923, s. 5 (10 Halsbury's Statutes 367) (suspension of increase of rent on ground of disrepair).

For the power of local authorities to make byelaws for enforcing a proper standard of working-class houses, see ss. 6 and 7, *post*; and see also s. 11 for power to make demolition orders and ss. 25 and 26 for clearance area procedure.

If there is a breach of this statutory provision, the tenant can sue the landlord for damages as well as abandon his tenancy: *Walker v. Hobbs & Co.* (1889), 23 Q. B. D. 458; 31 Digest 181, 3159, decided on the corresponding provision in the Housing of the Working Classes Act, 1885 (13 Halsbury's Statutes 808). It is the duty of the tenant to give notice to his landlord of any defect in the house which he alleges renders the house unfit for human habitation, and failure to give such notice will prevent the recovery of damages: *Morgan v. Liverpool Corporation*, [1927] 2 K. B. 131, C. A.; Digest Supp.; but this was queried in *Summers v. Salford Corporation*, *supra*; see Lord ATKIN at p. 290. Failure to give notice will not prevent recovery in the case of a latent defect: *Fisher v. Walters*, [1926] 2 K. B. 315; 31 Digest 181, 3160.

Strangers to the contract cannot sue on the implied undertaking, e.g. the tenant's wife or children: *Cavalier v. Pope*, [1906] A. C. 428; 31 Digest 348, 4900; *Cameron v. Young*, [1908] A. C. 176; 31 Digest 348, 4901; *Middleton v. Hall* (1912), 108 L. T. 804; 31 Digest 348, 4902; *Ryall v. Kidwell & Son*, [1914] 3 K. B. 135, C.A.; 31 Digest 348, 4903.

(f) **Landlord's right of entry.**—See *Morgan v. Liverpool Corporation*, *supra*, *per* ATKIN, L.J. As to the enforcement of this right of entry, see s. 158, *post*. Note that if the landlord desires the inspection to be carried out on his behalf by his agent he must authorise that agent in writing. A general authority given in writing to a person to act generally on behalf of a landlord would probably be deemed a sufficient authority within the meaning of this section. It is advisable, however, in giving such general authority to have regard to the requirements of this section if the property is affected thereby and to include a specific authority to carry out such inspections as may be deemed advisable for the purpose of this section. Writing includes typewriting: see the Interpretation Act, 1889, s. 20 (18 Halsbury's Statutes 1001). For mode of service of the notice on the tenant see s. 167 of this Act, p. 293, *post*.

(g) **"Landlord"**—In the case of all houses for the working classes, s. 4 of this Act provides, under a penalty, that the name and address of the medical

officer of health and of the landlord or other person who is directly responsible for keeping the house fit for human habitation shall be marked in the rent book, or if one is not used, delivered to the tenant in writing at the commencement of the tenancy, and before any demand for rent is made.

(h) **Application to statutory tenancies.**—It seems reasonably clear that a tenant who, under his contract of tenancy, would have been entitled to the benefit of the term enforced by this section, will continue to be so entitled when his tenancy ceases to be contractual and becomes statutory under the Rent and Mortgage Interest (Restrictions) Acts: see s. 15 (1) of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920 (10 Halsbury's Statutes 349), and *Morgan v. Liverpool Corporation*, *supra*.

3. Application of foregoing section to houses occupied by agricultural workers otherwise than as tenants.—(1) Notwithstanding any stipulation to the contrary, where under a contract of employment of a workman employed in agriculture the provision of a house or part of a house for his occupation forms part of his remuneration, and the provisions of the foregoing section are inapplicable by reason only of the house or part of the house not being let to him, there shall be implied as part of the contract of employment the like condition and undertaking as would be implied under those provisions if the house or part of the house were so let, and those provisions shall apply accordingly, with the substitution of "employer" for "landlord," and such other modifications as may be necessary:

Provided that this section shall not affect the obligation of any person other than the employer to repair a house to which this section applies, or any remedy for enforcing any such obligation.

(2) This section shall apply whether the contract of employment was entered into before or after the commencement of this Act.

NOTE TO SECTION 3

This section was first enacted in the Agriculture Act, 1920, s. 32, was reproduced in the Housing Act, 1925, s. 2, and amended by the Housing Act, 1935, s. 98, and Part II of the Sixth Schedule and by this Act. The section implies the provisions of s. 2 into the contract of employment between a workman employed in agriculture and his employer when the provision of a house for the workman forms one of the conditions of the contract, and consequently there is no "letting" to bring the case within s. 2 of the 1936 Act. The effect of the proviso to sub-s. (1) of s. 2 is that where houses are provided by some person other than the employer, the obligation of such person to repair under s. 1 or the lease is not to be affected.

The section applies to all contracts whenever made and notwithstanding any agreement to the contrary.

4. Information to be given to tenants of working-class houses.—In the case of any house (a) which is occupied, or is of a type suitable for occupation (b), by persons of

the working classes (c), the name and address of the medical officer of health for the district and of the landlord or other person who is directly responsible (d) for keeping the house in all respects reasonably fit for human habitation shall be inscribed in the rent book (e), or, where a rent book is not used, shall be delivered in writing to the tenant at the commencement of the tenancy and before any rent is demanded or collected; and, where there has been any failure to comply with the provisions of this section in respect of any house, any person who while the default continues demands or collects any rent in respect of the house as aforesaid shall on summary conviction (f) be liable to a fine not exceeding forty shillings.

NOTES TO SECTION 4

This section was originally enacted in the Housing, Town Planning, etc., Act, 1919, and reproduced in s. 5 of the Housing Act, 1925, and amended by the Housing Act, 1935. See also the Statement of Rates Act, 1919 (10 Halsbury's Statutes 331), requiring that demands and receipts for rents shall state the amount of rates included in the rent.

Offences.—Under this section it is an offence—

1. To demand or collect rent until the name and address of the Medical Officer of Health for the district is inscribed in the rent book.
2. To demand or collect rent until the name of the landlord or other person directly responsible for keeping the house in all respects reasonably fit for human habitation is inscribed in the rent book.

or where a rent book is not used—

3. To demand or collect rent before the name and address of the Medical Officer has been delivered in writing to the tenant.
4. To demand or collect rent before the name and address of the landlord or other person directly responsible has been delivered in writing to the tenant.

(a) **House.**—See notes to s. 188 (1), p. 311, *post*.

(b) **Type suitable for occupation.**—Formerly the phrase used was “intended or used for occupation by the working classes.” It is clear that the new phrase is much wider in scope than the old. It would, it is submitted, include empty premises and any premises which were of such a size and character as to be capable of being occupied by the working classes.

(c) **“Working classes.”**—The Act does not define the expression “working class” or “working classes” except for the purpose of Schedule XI (see para. 11 (e) of that Schedule, p. 349, *post*). For the meaning of the term generally, reference may be made to *London C.C. v. Davis* (1897), 62 J. P. 68; 26 Digest 510, 2149; *Crow v. Davis* (1903), 67 J. P. 319; 34 Digest 588, 88. A chauffeur in the employment of a private individual has been held to be a member of the working classes: *White v. St. Marylebone B.C.*, [1915] 3 K. B. 249; 38 Digest 216, 507. The section, however, must be read in the light of s. 2, and it is submitted that houses to which the last-mentioned section applies would be deemed to be “houses occupied or of a type suitable for occupation by the working classes.” This view is not inconsistent with the case of *Arlidge v. Tottenham U.D.C.*, [1922] 2 K. B. 719; 38 Digest, 214, 489. See also note (f) to s. 6, p. 57, *post*.

(d) **“Other person who is directly responsible.”**—*E.g.* any person entrusted with the management of the property on the landlord's behalf.

(e) **Rent Books.**—In order to avoid difficulties landlords are advised to use rent books. In the case of dwelling houses within the Rent and Mortgage Interest (Restrictions) Acts, where the rent is payable weekly, the landlord is obliged to provide a rent-book. See s. 6 of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1938 (31 Halsbury's Statutes 391). Such books should have been inserted in them the following:

- (1) The name and address of the landlord or other person responsible.
- (2) The name and address of the Medical Officer of Health for the district.
- (3) A summary of the provisions of ss. 58, 59 and 61 of the Act (see s. 62).
- (4) A statement of the permitted number of persons in relation to the provisions of the Act relating to overcrowding (see s. 62).
- (5) Amount of rates under Statement of Rates Act, 1919.

(f) **By whom an information may be laid.**—It is a well-established principle that when an offence is not an individual grievance but is a matter of public policy or common public morals any person has a general power to inform and sue for the penalties unless the statute creating the offence contains some restriction or regulation limiting the right to some particular person or party, *per COCKBURN, C.J.*, in *Cole v. Coulton* (1860), 29 L. J. M. C. 125; 38 Digest 168, 127. See also *R. v. Stewart*, [1896] 1 Q. B. 300; 60 J. P. 356; 33 Digest 324, 389; *Young v. Peck* (1912), 107 L. T. 857; 77 J. P. 49; 33 Digest 324, 390; *R. v. Hicks* (1855), 4 E. & B. 633; 19 J. P. 515; 33 Digest 324, 391; *Badcock v. Sankey* (1890), 54 J. P. 564; 43 Digest 348, 70.

Clearly the provision is enacted in the first instance for the benefit of the tenant, but there being nothing in the Act limiting the right to any particular person it appears that anyone (including the local authority) can lay an information against the landlord or other person responsible for the commission of an offence under this section. In s. 7 (5) of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1938 (31 Halsbury's Statutes 392), provision is made to compel the disclosure of the actual landlord for the purposes of those Acts.

Duty of Local Authority in regard to Inspection of Houses.

5. Duty of local authority to inspect their district and keep records.—It shall be the duty of every local authority (a) to cause an inspection (b) of their district to be made from time to time with a view to ascertaining whether any house (c) therein is unfit for human habitation (d), and for that purpose it shall be the duty of the authority, and of every officer of the authority, to comply with such regulations (e) and to keep such records as the Minister may prescribe.

NOTES TO SECTION 5

History of Section.—See the Housing of the Working Classes Act, 1890, s. 32 (1); the Housing of the Working Classes Act, 1903, s. 8; the Housing, Town Planning, etc., Act, 1909, s. 17 (1), and Sixth Schedule; the Housing Act, 1925, s. 8 (a), amended by the Housing Act, 1930, Schedule V (23 Halsbury's Statutes 442).

(a) "**Local authority.**"—For definition of "local authority," see s. 1; and as to London, see s. 24. In this case, therefore, the local authority is the council of a county borough, non-county borough, urban or rural district or the Common Council of the City of London or a metropolitan borough council.

(b) "**Inspection.**"—As to this inspection, see the Housing Consolidated Regulations (S. R. & O. 1925, No. 866) as amended by S. R. & O. 1932, No.

648, p. 480, *post*. This inspection is not identical in scope with that required by s. 91 of the Public Health Act, 1936 (29 Halsbury's Statutes 394), but one inspection may be made to serve both purposes. For power of entry for the purpose of this inspection, see s. 157, *post*, and for penalty for obstructing, see s. 158, *post*. If the local authority as a result of this inspection come to the conclusion that the house is unfit for human habitation they can take action under the appropriate provisions of this Act, *i.e.* by notice to repair under s. 9, a demolition order under s. 11, or, if the required conditions exist, by clearance order under s. 25 or by a re-development plan under s. 34.

(c) **"Any house."**—The term "house" includes any yard, garden, outhouses, and appurtenances belonging thereto or usually enjoyed therewith: see s. 188, *post*, and notes thereto. There is no restriction as to the class or rental value of houses to be inspected under this section, but the local authority can only take action with regard to working-class houses.

(d) **"Unfit for human habitation."**—Under a local Act it has been held that a house may be closed as "unfit for human habitation," though it is in itself in fair condition, if the proximity of other buildings renders it insufficiently ventilated: *Hall v. Manchester Corporation* (1915), 79 J. P. 385 (H.L.); 38 Digest 212, 470. Whether a dwelling-house is so unfit or not is a question of fact to be determined by the local authority in a judicial spirit. The standard to be applied is that of the ordinary reasonable man, and it does not follow that a whole building is unfit for human habitation because certain rooms are unfit: *ibid.*; *cf.* note (h) to s. 25, p. 99, *post*.

(e) **Regulations.**—Regulations under this section are contained in Housing Consolidated Regulations, 1925, as amended by S. R. & O. 1932, No. 648: see pp. 480, 490, *post*.

Power of Local Authorities to make and enforce Byelaws.

6. Byelaws as to working-class houses.—(1) The local authority (a) may, and if required by the Minister (b) shall, make and enforce (c) byelaws (d) with respect to houses (e) which are occupied, or are of a type suitable for occupation, by persons of the working classes (f)—

- (a) (g) for fixing, and from time to time varying, the number of persons who may occupy such a house, and for the separation of the sexes therein;
- (b) for the registration and inspection of such houses;
- (c) for enforcing drainage and promoting cleanliness and ventilation of such houses;
- (d) for requiring provision adequate for the use of, and readily accessible to, each family, of—
 - (i) closet accommodation;
 - (ii) water supply and washing accommodation;
 - (iii) accommodation for the storage, preparation, and cooking of food;
 and, where necessary, for securing separate accommodation as aforesaid for every part of any such house which is occupied as a separate dwelling;
- (e) for the keeping in repair and adequate lighting of any common staircases in such houses;

- (f) (*h*) for securing stability, and the prevention of and safety from fire ;
- (g) for the cleansing and redecoration of the premises at stated times, and for the paving of the courts and courtyards ;
- (h) for the provision of handrails, where necessary, for all staircases of such houses ;
- (i) for securing the adequate lighting of every room in such houses ;
- (j) (*i*) for the prevention of nuisances arising from or in a part of a building or an underground room in respect of which a closing order under section twelve of this Act is in force ;
- (k) as respects houses situate in the administrative county of London, for the taking of precautions in the case of infectious disease ;

and any such byelaws, in addition to any other penalty, may prohibit the letting for occupation by members of more than one family of any such house unless the byelaws are complied with, subject, in the case of houses so let or occupied at the time when the byelaws come into force, to the allowance of a reasonable time for the execution of any works necessary for compliance with the byelaws.

(2) (*j*) As from the appointed day (*k*) within the meaning of Part IV of this Act, paragraph (a) of the last foregoing subsection, and any byelaws made under this section for the purposes specified in that paragraph, shall cease to have effect.

(3) (*l*) The operation of any byelaws made under this section for any of the purposes specified therein may be limited to houses let in lodgings or occupied by members of more than one family.

(4) If a local authority, when required by the Minister to make byelaws under this section for any of the purposes specified therein, fail to make, within such period as he may specify, byelaws satisfactory to him for those purposes the Minister may himself make byelaws for those purposes, and any byelaws so made by him shall have effect, and shall be enforced, as if they had been made by the local authority and duly confirmed.

(5) The Minister shall be the confirming authority as respects byelaws made under this section.

NOTES TO SECTION 6

History of the Section.—See the Common Lodging Houses Act, 1851 (11 Halsbury's Statutes 882); the Sanitary Act, 1866, s. 35; the Sanitary

Law Amendment Act, 1874 (11 Halsbury's Statutes 1006); the Public Health Act, 1875, s. 90 (13 Halsbury's Statutes 660); the Housing of the Working Classes Act, 1885, s. 8 (13 Halsbury's Statutes 808); the Housing, Town Planning, etc., Act, 1919, s. 26; the Housing, etc., Act, 1923, s. 14; the Housing Act, 1925, s. 6 (13 Halsbury's Statutes 1006); the Housing Act, 1935, s. 68 (28 Halsbury's Statutes 245); and *Arldge v. Islington Corporation*, [1909] 2 K. B. 127; 38 Digest 164, 107.

General Note.—S. 6 of the Act of 1925 extended the power of making and enforcing byelaws under the Public Health Act, 1875, and the Public Health (London) Act, 1891, in the case of houses intended or used for occupation by persons of the working classes to houses let in lodgings or divided into separate tenements.

By s. 8 (1) of the Act of 1930 a duty was imposed on local authorities to make byelaws under s. 6 of the 1925 Act with respect to any area declared by them to be an improvement area, and by sub-s. (3) of that section power was given to extend the application of such byelaws to any house, whether let in lodgings or occupied by members of more than one family or by one family only.

Section 68 of the Act of 1935 extended the operation of these byelaws so as to enable them to be made with respect to all houses intended or used for the occupation of the working classes whether occupied by more than one family or by one family only. With certain minor amendments this section substantially re-enacts s. 6 of the 1925 Act as amended by s. 68 of the Act of 1935. The procedure for making byelaws outside London is laid down in the Local Government Act, 1933, s. 250. See also Memorandum A, 1935, para. 27, p. 607, *post*. As to London, see Part VIII, London Government Act, 1939 (32 Halsbury's Statutes 327).

Model byelaws have been prepared and are now available for the assistance of local authorities for securing the improvement of housing conditions.

Authorities.—The authorities responsible for the making and enforcement of byelaws under this section are—

- (1) As respects the City of London, the Common Council, but by sub-s. (1) of s. 8, p. 61, *post*, byelaws for the purpose of para. (f) of s. 6 (1), viz. byelaws for the purpose of securing stability, and the prevention of and safety from fire, are to be made and enforced by the L.C.C.
- (2) As respects the administrative County of London other than the City of London, the London County Council are the authority responsible for making byelaws and the Metropolitan Borough Councils are the authority for enforcing them, except in the case of byelaws made under para. (f) of s. 6 (1), which are to be enforced by the L.C.C. (s. 8 (2)).
- (3) Elsewhere the council of the borough or urban or rural district are the authority both for making and enforcing the byelaws (see ss. 6 (1) and 1 (1), pp. 47, 54, *ante*).

Operation of byelaws.—Byelaws under this section may be made in respect of—

- (1) houses which are occupied by the working classes;
- (2) houses of a type suitable for occupation by the working classes. But the operation of the byelaws may for purposes specified in them be limited to houses let in lodgings or occupied by members of more than one family.

The operation of the byelaws will depend in the first place on the interpretation to be given to the word "house." There is no exclusive definition of the word, but by s. 188 it includes "any yard, garden, outhouses, or appurtenances belonging thereto or usually enjoyed therewith." It is submitted that it does not include a flat within the definition of that term in s. 188, but the section is obviously intended to make such byelaws applicable to houses which may be let in parts (see s. 6, sub-s. (1), paras. (d)-(e)).

It must further be noted that such byelaws may be made not only in respect of houses occupied by persons of the working classes but also in

respect of houses of a type suitable for occupation by the working classes. S. 6 of the Act of 1925 limited the operation of such byelaws to houses intended or used for occupation by the working classes. This, it is submitted, is much narrower in scope than the words now by this section substituted therefor. It would seem that it will be for the Courts to decide in doubtful cases whether any byelaws made in respect of such houses are or are not applicable.

Validity of Byelaws.—Note that byelaws made under this section must be confirmed by the Minister of Health. As to the validity of byelaws generally, see Halsbury's Laws of England, Hailsham ed., vol. 26, pp. 598–609, and English and Empire Digest, vol. 38, pp. 156–167.

(a) **“Local authority.”**—The local authority for the purposes of Pt. II are defined by s. 24, p. 94, *post*, subject to the provisions of s. 8 as respects London. See also s. 1, p. 47, *ante*.

(b) **“If required by the Minister shall.”**—As to the power of the Minister to act in default, see sub-s. (4).

(c) **Make and enforce.**—For the procedure for making byelaws outside London, see s. 250, Local Government Act, 1933 (p. 273, *post*). The Minister of Health is the confirming authority for the purposes of this section; see sub-s. (5). As to London, see s. 8, and as to the enforcement of byelaws, see s. 7, *post*, and s. 251 of the Local Government Act, 1933 (p. 204, *post*).

(d) **“Byelaws.”**—For model byelaws, see general note, *supra*. As to the authorities for making and enforcing such byelaws in London, see s. 8, p. 61, *post*, and see note, *supra*.

(e) **“House.”**—See notes to s. 188 (1) p. 311, *post*.

(f) **“Working classes.”**—The Act does not define the term “working class” or “working classes” except for the purpose of Schedule XI (see para. 11 (e) of that schedule, p. 349, *post*). For the meaning of the term generally reference may be made to *London County Council v. Davis* (1897), 62 J. P. 68; 26 Digest 510, 2149; *Crow v. Davis* (1903), 67 J. P. 319; 34 Digest 588, 88. A chauffeur in the employment of a private individual has been held to be a member of the working classes: *White v. St. Marylebone B.C.*, [1915] 3 K. B. 249; 38 Digest 216, 507. It is submitted that the expression must be construed in its natural and ordinary sense, and the limitations as to rent in s. 2, p. 48, *ante*, cannot be imported into this section (*Arlidge v. Tottenham U.D.C.*, [1922] 2 K. B. 719; 38 Digest 214, 489). The reason for not defining the term was stated by the Minister in Committee of the House of Commons to be as follows:—

“Throughout the long course of housing legislation which we have ‘had in this country, the legislature has always left the definition in ‘the form of ‘housing for the working classes.’ It has reviewed that ‘definition on the occasion of every Housing Bill in order to see whether ‘it was useful or practicable to give a further definition which would ‘be more sharp. It has always come to the conclusion that it could not ‘do so. I made the same review when drafting this Bill as to whether ‘it was possible to give a sharper definition of the phrase ‘working ‘classes’ to give a more practical guide, and I was forced to the conclusion to which a long line of predecessors had been forced, and which the ‘House of Commons had accepted on repeated occasions, that the way to ‘secure our ends was best served by leaving the definition in this form.”

(g) **Paragraph (a).**—As to this see sub-s. (2) and notes thereto. When a day is appointed for an area under Part IV any byelaws made under this paragraph will be superseded by the provisions of that part of the Act which provides a standard of overcrowding for the whole country. See in particular ss. 58 and 59, pp. 170, 171, *post*.

(h) **Paragraph (f).**—As to the authority for making and enforcing byelaws made under this paragraph in London, see s. 8 and note on authorities, *supra*.

(i) **Paragraph (j).**—This paragraph was first enacted in the Housing Act, 1935. It is intended to give local authorities who close part of a building or a room under s. 12 of the Act (see p. 76, *post*) power to make byelaws for preventing a nuisance arising in part of a building or in rooms so closed. The authority have power under the Public Health Act to deal with nuisances after they have arisen. The paragraph is reproduced from the London County Council (General Powers) Act, 1933, s. 70 (2) (d) (26 Halsbury's Statutes 601), which conferred certain special powers on the Royal Borough of Kensington.

Note also that s. 12 gives to local authorities power to control premises which have been closed.

(j) **Sub-section (2).**—Byelaws made under para. (a) will be superfluous after the appointed day. The paragraph gave authorities power to make byelaws for the prevention of overcrowding. Part IV of the Act, s. 58, now lays down a general standard for overcrowding applicable to the whole country. This standard becomes operative in each local administrative district on the day appointed by the Minister.

(h) **"Appointed day."**—See s. 68, p. 184, *post*, and notes thereto.

(l) **Sub-section (3).**—Note under the original s. 6 of the Act of 1925 byelaws could only be made in respect of houses let in lodgings or occupied by members of more than one family. Byelaws made under this section apply to all houses occupied or suitable for occupation by persons of the working classes unless they are expressly limited to houses let in lodgings or occupied by members of more than one family.

7. Enforcement of execution of works to comply with byelaws.—(1) (a) Byelaws made under the last foregoing section may impose the duty of executing any works necessary for compliance with the byelaws upon the owner (b) within the meaning of the Public Health Acts of the house, or upon any other person having an interest in the premises (c), and may prescribe the circumstances and conditions in and subject to which any such duty is to be discharged.

(2) (d) For the purpose of discharging any duty so imposed, the person upon whom it is imposed may at all reasonable times enter upon any part of the premises.

(3) (e) Where any person has failed to execute any works which he has been required to execute under any such byelaws, the local authority by whom the byelaws are to be enforced may, after giving to him not less than twenty-one days' notice in writing, themselves execute the works and recover the expenses, and for that purpose the provisions of section ten of this Act with respect to the enforcement of notices requiring the execution of works, and the recovery of expenses, by local authorities shall apply with such modifications as may be necessary.

(4) (f) Where the person on whom obligations are imposed by any such byelaws holds the premises under a lease or agreement and satisfies the local authority that compliance with the byelaws is contrary to the provisions of the lease

or agreement, or that the whole or any part of the expenses of carrying out the obligations ought to be borne by his lessor or other superior landlord, the local authority may (g) make application to the county court, and that court may, after giving the lessor or any other superior landlord an opportunity of being heard,—

- (a) in the first case, order that the provisions of the lease or agreement be relaxed so far as they are inconsistent with the requirements of the byelaws ;
- (b) in the second case, grant to the person who carries out the works necessary for compliance with the byelaws, on proof to the satisfaction of the local authority that the works have been properly carried out, a charging order (h) charging on the premises an annuity, of such amount and extending over such number of years as the court may determine, to repay the expenses properly incurred in carrying out the works, or such part of those expenses as, in the opinion of the court, ought to be so charged.

(5) (i) Where a local authority have acquired a leasehold interest in any house under the powers conferred upon them by this Act, the Minister, on the application of the local authority, may make any such order with regard to the relaxation of the provisions of the lease and to charging an annuity on the premises as might, had the lessee not been the local authority, have been made on the application of the local authority by the county court, and in that case the decision of the Minister as to the amount and duration of any such annuity shall be final.

NOTES TO SECTION 7

History.—This section substantially reproduces s. 7 of the Housing Act, 1925, as amended by the Housing Act, 1935.

(a) **Sub-s. (1).**—The power contained in this sub-section is very important. Byelaws made under s. 6 have as object the improvement of housing conditions, but they can by this sub-section go much further than impose penalties for failure to comply with the requirements there laid down ; it also imposes on owners or other persons interested in the property the duty to execute any works necessary for compliance with the byelaws. Where byelaws have been passed for any particular area local authorities, so far as the scope of such byelaws extends, may find this an alternative method of securing better housing conditions to the service of notices under s. 9, *post*.

(b) **“ Owner.”**—Under s. 343 of the Public Health Act, 1936 (29 Halsbury's Statutes 536), the term “ owner ” is defined to mean “ the person for the time being receiving the rent rack of the lands or premises in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive the same if such lands or premises were let at a rack rent.”

The term “ rack rent ” by the same section is defined to mean “ rent which is not less than two-thirds of the rent at which the property might

reasonably be expected to let from year to year, free from all usual tenant's rates and taxes, and tithe rent-charge (if any) and deducting therefrom the probable annual average cost of the repairs, insurance, and other expenses (if any) necessary to maintain the same in a state to command such rent."

(c) "**Any other person interested in the premises.**"—This phrase is not defined by the Act—presumably it will cover the case of all persons who have an interest in the premises other than those included in the definition of "owner" above. See also s. 19, p. 88, *post*.

(d) **Sub-s. (2).**—This sub-section overcomes the difficulty raised by the Divisional Court to a byelaw similar to byelaw 8 of the Model Byelaws in *Arlidge v. Islington Corporation*, [1909] 2 K. B. 127; 73 J. P. 301; 38 Digest 164, 101, where it was held that a byelaw imposing a duty on a landlord to cleanse premises was unreasonable because there was no power on the part of the landlord to enter against the will of the tenant. For penalty for obstructing right of entry, see s. 158, p. 287, *post*, and for penalty for obstructing execution of repairs, see s. 159.

(e) **Sub-s. (3).**—This sub-section gives to the local authority power to execute works on failure of the person required to carry out such works under the byelaws, but before doing so they must give him not less than twenty-one days' notice. The provisions of s. 10 are with necessary modifications made applicable to this section. It appears, therefore, that an appeal will lie to the county court against the notice, that the authority will in the circumstances mentioned in that section have power to enter the premises for the purpose of carrying out works and be able to recover the expenses in accordance with the terms of the section. For s. 10, see p. 67, *post*.

(f) **Sub-s. (4).**—This sub-section gives power to the county court, on the application of the local authority, to—

- (a) order that the provisions of a lease or agreement be relaxed in so far as they are inconsistent with the requirements of the byelaws.
- (b) grant to the person who carries out the work, on proof that it has been carried out to the satisfaction of the local authority, a charging order, charging on the premises an annuity for a period to be specified by the courts for repaying all or so much of the expense as the court considers ought to be so repaid.

The jurisdiction of the court to make an order under (a) above arises when the person on whom the obligations are imposed under the byelaws—

- (i) holds the premises under a lease or agreement; and
- (ii) satisfies the local authority that compliance with the byelaws is contrary to the provisions of the lease or agreement; and
- (iii) the local authority makes the application.
- (iv) the court gives the lessor or other superior landlord an opportunity of being heard.

The jurisdiction of the court to make an order under (b) above arises where the person on whom the obligation is imposed by the byelaws—

- (i) holds the premises under a lease or agreement.
- (ii) satisfies the local authority that the whole or any part of the expenses of carrying out the obligations ought to be borne by his lessor or superior landlord.
- (iii) the local authority makes the application.
- (iv) the court gives the lessor or other superior landlord an opportunity of being heard.

(g) "**May.**"—Note that only the local authority may make the application. If they refuse to make it, there appears to be no remedy.

(h) "**Charging order.**"—See the provisions as to charging orders contained in ss. 20 and 21, pp. 89, 90 *et seq.*, *post*. Such charging orders must be registered in the Local Land Charges Register under s. 15, Land Charges Act, 1925 (15 Halsbury's Statutes 538). For form of charging order under this sub-section, see County Court Rules, 1936, Order 46, Rule 9 (2), Form 370.

(i) **Sub-s. (5).**—This section provides that where a local authority are the lessors of a property the Minister shall have the same jurisdiction as the county court to make orders under paras. (a) and (b) of sub-s. (4). There appears to be no obligation on the Minister to hear the lessor or superior landlord, but it would seem, as this is a judicial decision, that unless he took steps to obtain the views of the other side his jurisdiction could be questioned in the courts, *e.g.* in *Board of Education v. Rice*, [1911] A. C. 179; 19 Digest 602, 290. It is only in the case of the amount and duration of an annuity that the Minister's decision is expressed to be final. See also *Re Mowsley (No. 1) Compulsory Purchase Order, 1944* (1946), 175 L. T. 101; *sub nom. Stafford v. Minister of Health*, 110 J. P. 210.

8. Byelaws as to working-class houses (provisions as to London).—(1) As respects the administrative county of London, the London County Council shall be the local authority for the purpose of making and enforcing byelaws under section six of this Act for the purposes specified in paragraph (f) of subsection (1) of that section, to the exclusion, as regards the City of London, of the Common Council.

(2) As respects the administrative county of London other than the City of London, the London County Council shall be the local authority for the purpose of making byelaws under section six of this Act for the purposes specified in subsection (1) of that section other than the purposes specified in paragraph (f) thereof, and the metropolitan borough council shall be the local authority for the purpose of the enforcement of such byelaws.

(3) Byelaws made by the London County Council under section six of this Act may provide that the byelaws shall, either generally or as respects any particular metropolitan borough or any part thereof, have effect subject to such modifications, limitations or exceptions as may be specified in the byelaws.

(4) The provisions of section two hundred and seventy-seven of the Public Health (London) Act, 1936, shall apply in relation to any byelaws to be made or enforced under section six of this Act by the Common Council of the City of London.

(5) *At least two months before the London County Council apply to the Minister for the confirmation of any byelaws made by them under section six of this Act they shall send a copy of the proposed byelaws to every metropolitan borough council by whom the byelaws will have to be enforced, and the county council shall consider any representations made to them thereon by any such metropolitan borough council.*

NOTES TO SECTION 8

This section sets out the authorities in the administrative county of London who are responsible for the making and enforcing byelaws under s. 6. Apart from this particular section the authorities in the administrative county for this part of the Act are set out in s. 24, p. 94, *post*.

Local authorities.

- (1) The City of London is the authority for the making and enforcing of byelaws under s. 8, other than byelaws under s. 6 (1), para. (f) for securing stability, and the prevention of and safety from fire, which are made and enforced by the L.C.C.
- (2) The London County Council are the authority for making byelaws for the whole of the administrative county except the city of London and the authority for enforcing byelaws made under para. (f) for securing stability and the prevention of and safety from fire, including the City.
- (3) Metropolitan Borough Councils are authorities for enforcing the byelaws within their several districts with the exception of byelaws made under para. (f).

Subsection (5) was repealed by the London Government Act, 1939. As to the procedure for making byelaws in London, see s. 147 of that Act (32 Halsbury's Statutes 328).

Repair, Demolition and Closing of Insanitary Premises.

9. Power of local authority to require repair of insanitary house.—(1) Where a local authority (*a*), upon consideration (*b*) of an official representation (*c*), or a report from any of their officers (*d*), or other information in their possession, are satisfied (*e*) that any house (*f*) which is occupied, or is of a type suitable for occupation (*g*), by persons of the working classes (*h*) is in any respect (*i*) unfit for human habitation (*j*), they shall, unless they are satisfied that it is not capable at a reasonable expense of being rendered so fit (*k*), serve (*l*) upon the person having control (*m*) of the house a notice (*n*) requiring him, within such reasonable time (*o*), not being less than twenty-one days, as may be specified in the notice, to execute the works (*p*) specified in the notice and stating that, in the opinion of the authority, those works will render the house fit for human habitation.

(2) (*q*) In addition to serving a notice under this section on the person having control of the house, the local authority may serve a copy of the notice on any other person having an interest in the house, whether as freeholder, mortgagee, lessee, or otherwise.

(3) In determining for the purposes of this Part of this Act whether a house can be rendered fit for human habitation at a reasonable expense, regard shall be had (*r*) to the estimated cost of the works necessary to render it so fit and

the value which it is estimated that the house will have when the works are completed.

(4) (s) For the purposes of this Part of this Act, the person who receives the rack-rent of a house, whether on his own account or as agent or trustee for any other person, or who would so receive it if the house were let at a rack-rent, shall be deemed to be the person having control of the house.

In this subsection the expression "rack-rent" means rent which is not less than two-thirds of the full net annual value of the house.

NOTES TO SECTION 9

General Note.—This section reproduces s. 17 of the Housing Act, 1935. It enables a local authority to require the repair of any house which is in any respect unfit for human habitation and which can be made so fit at a reasonable cost. In taking proceedings under this section local authorities should constantly bear in mind the scope of the section. The section does not empower the authority to order the execution of any works which seem to them desirable, but only such as are necessary to make the house fit for human habitation. For example, works which add to the amenities or merely improve the appearance of the house do not appear to come within the scope of the section (see *Adams v. Tuer* (1923), 130 L. T. 218; 87 J. P. 193; 38 Digest 215, 501). They should also take care that in serving such notices all the requirements of the Act have been complied with (*West Ham Corporation v. Benabo (Charles) & Sons*, [1934] 2 K. B. 253; 98 J. P. 287; Digest Supp.). There is no obligation on authorities under this section to hear the person on whom a notice to execute works is served as under s. 11 (demolition orders). On the other hand there is nothing to prevent an authority from conferring with the owner where they are so minded. It may sometimes save a great deal of time and expense in appeals if authorities, when a complicated schedule of works required is served, consulted with the person served and endeavoured to arrive at an agreed schedule.

Any person served with notice should, if he questions the validity of the order or is aggrieved by the requirements of the authority, appeal under s. 15 within the twenty-one days allowed for the purpose by that section. Otherwise it may be difficult to contest any order so served (*Cohen v. West Ham Corporation*, [1933] Ch. 814; 97 J. P. 155; Digest Supp.). It would appear, however, that a writ of prohibition would lie where an order was made without jurisdiction even though the statute provides for an appeal (WILLES, J., in *White v. Steel* (1862), 12 C. B. (N.S.) 383; 19 Digest 273, 569. Superior landlords should note the provisions enacted for their benefit in ss. 19, 161 and 162, pp. 88, 289, 290, *post*).

Further similar powers are to be found in s. 92 of the Public Health Act, 1936 (29 Halsbury's Statutes 394). Under that section premises in such a state as to be prejudicial to health can be regarded as a nuisance and a notice to abate under s. 93 can require the execution of works. An appeal against such a notice can be made to a court of summary jurisdiction under s. 290 on the grounds set out in subsection (3) of that section (29 Halsbury's Statutes 509). Failure to obey the abatement notice may result in the making of a nuisance order under s. 94 by a court of summary jurisdiction and non-compliance with that order renders the person served liable to a fine. Similar provision is to be found in ss. 82, 83, and 282 and the Fifth Schedule of the Public Health (London) Act, 1936 (30 Halsbury's Statutes 489, 490, 592, 615). (S. 290 of the Public Health Act, 1936, does not apply to London, however, and there is no corresponding provision in the London Act.)

(a) "**Local authority.**"—See s. 1, p. 47, *ante*, and as respects London for the purpose of this part of the Act, s. 24, p. 94, *post*.

(b) "**Upon consideration.**"—In *Hall v. Manchester Corporation* (1915), 79 J. P. 385; 38 Digest 212, 470, Lord DUNEDIN, in discussing a similar section under a local Act, said: "I think the corporation must set itself to the task in a judicial spirit; but if it does so, acting in good faith, and coming to a conclusion on the fact that it is warranted in making a declaration of unfitness, then I think no court can review that determination." See also the judgment of ROMER, L.J., in *Cohen v. West Ham Corporation*, *supra*.

(c) "**Official representations.**"—See definition in s. 188, p. 311, *post*, and s. 154, p. 283, *post*, and as to London see s. 183, p. 308, *post*. A local authority may act under s. 9 upon consideration of (1) an official representation, (2) a report of their officers, or (3) other information in their possession. There is no prescribed form for an official representation and the only requirement of the Act is that it shall be in writing. By s. 20 of the Interpretation Act, 1889, it is provided that "In this and in every other Act whether passed before or after the commencement of this Act expressions referring to writing shall, unless the contrary intention appears, be construed as including references to printing, lithography, photography, and other modes of representing or reproducing words in a visible form." From which it follows that the representation may be typed. It should, of course, be signed by the Medical Officer who makes it. The representation could be in the following form:

TO THE.....URBAN DISTRICT COUNCIL.

I, A..... B..... C....., M.D., D.P.H., Medical Officer of Health to the Urban District Council, do hereby represent the undermentioned houses (which said houses are occupied by persons of the working classes or are of a type suitable for occupation by such persons) as being unfit for human habitation in the respect mentioned respectively or relative to such houses. I am of opinion that all the said houses are capable of being rendered fit at a reasonable expense and I recommend that notices requiring the execution of the necessary works should be served upon the persons having control of such houses. I append schedules of the works which in my opinion the persons having control of the houses should be required to execute in order to render each of the said houses fit for human habitation.

The schedule of works should specify concisely and precisely the works which in the opinion of the Medical Officer of Health it is necessary for the person in control to execute. It may save a good deal of trouble in the event of an appeal if this schedule of works is shown to some qualified person on the staff of the council who knows the houses in question, who can certify that in his opinion it is reasonable having regard to the conditions and value of the houses to require the execution of the said works; the surveyor would be the appropriate officer to give this certificate. An owner, for reasons best known to himself, may desire to force the council to make a demolition order. It does not follow that because an owner prefers a demolition order that the council should adopt this course rather than enforce the repair of the house. On an appeal in a case like this the council's case will be considerably strengthened if they can show that they did inquire into the probable cost of the proposed works and were informed of the approximate value of the house.

If the Medical Officer makes a representation under this section he must be prepared to support it on an appeal to the county court. He is, of course, entitled to have regard to reports made to him by members of his staff, but he should personally inspect the property and verify their reports before making his representation. He will not be permitted to confer with the sanitary inspector while giving evidence in court, though this is frequently allowed at local inquiries. (See further, note (b) to s. 11.)

(d) "**Report from any of their officers.**"—Note that the council can take proceedings under this section apart from an official representation by the medical officer.

(e) **"Are satisfied."**—As to the meaning of this see *Fletcher v. Ilkeston Corporation* (1931), 96 J. P. 7; Digest Supp.; *Cohen v. West Ham Corporation*, [1933] Ch. 814; 97 J. P. 155; Digest Supp. (See also note (c) to s. 11, p. 74, *post*.)

(f) **"House."**—See s. 188, p. 311, *post*, and notes thereto. By s. 23 references to a house in this section "include a reference to a hut, tent, caravan or other temporary or movable form of shelter which is used for human habitation and has been in the same enclosure for a period of two years next before action is taken under these sections."

(g) **"Occupied or is of a type suitable for occupation."**—This phrase will it seems cover empty houses and also a wide variety of houses which are not now occupied by persons of the working classes in the ordinary sense of the term. (See also note (b) to s. 4, p. 52, *ante*.)

(h) **"Working classes."**—See note (f) to s. 6, p. 57, *ante*.

(i) **"In any respect."**—It seems that the local authority in view of these words must consider the respects in which the house is unfit and serve a schedule of works which will remedy those particular defects. It is not sufficient to serve a schedule of dilapidations without reference to the respects in which the house is alleged to be unfit. (See *Adams v. Tuer*, *supra*; *Anderson v. Brixham U.D.C.* (1935), 2 L. J. C. C. R. 73.)

Note also the difference between the wording of this section and the wording of s. 25, which reproduces s. 1 of the Act of 1930. Under s. 25 a house can only be included in a clearance area as unfit for human habitation *by reason of disrepair or sanitary defects*. The difference in the language employed in the two sections may prove important, *e.g.* a house may be unfit for human habitation owing to the presence of vermin (see *Smith v. Marrable* (1843), 11 M. & W. 5; 31 Digest 179, 3122; *Campbell v. Wenlock (Lord)* (1866), 4 F. & F. 716, N.P.; 31 Digest 179, 3127; *Chester v. Powell* (1885), 52 L. T. 722; 31 Digest 179, 3126), and evidence of the presence of vermin would be relevant in an appeal against a notice under s. 9 or a demolition order under s. 11, but unless vermin can be regarded as either "disrepair" or a "sanitary defect," such evidence would be inadmissible at a local inquiry into a clearance area. Power to cause houses to be rid of vermin is conferred by the Public Health Act, 1925, s. 46 (13 Halsbury's Statutes 1135) and s. 83 of the Public Health Act, 1936 (29 Halsbury's Statutes 388), and note that by s. 187 (p. 310, *post*) the powers conferred by this Act are cumulative (on vermin, see also s. 17, p. 86, *post*). It must be pointed out, however, that local authorities often allege vermin as a defect in evidence against houses included in a clearance area, but the question of whether vermin constitute a sanitary defect is arguable.

(j) **"Unfit for human habitation."**—The question of unfitness for human habitation was discussed by the House of Lords in *Hall v. Manchester Corporation* (1915), 79 J. P. 385; 38 Digest 212, 470. Lord DUNEDIN said: "'unfit for human habitation' is a very strong expression, and vastly different from 'not up to modern or model requirements.' Further, that if such a term is applied to a house as a whole it must mean that each and every room is unfit—a result which, if the defect is want of ventilation, I can scarcely conceive being arrived at when there are rooms with windows facing a street."

Lord PARKER OF WADDINGTON said: "The fact that the corporation have a certain standard of fitness which they desire to impose on the area subject to their jurisdiction, and that the building in question falls short of that standard, will not in my opinion necessarily render the house unfit for human habitation within the meaning of this section." Lord PARKER also stated, although his remarks were not necessary to the decision, that "the corporation cannot make an order as to the whole building when part only is unfit for human habitation."

This case was decided under a local Act. Under this Act, however, s. 188 (4), (p. 314, *post*), provides the tests as to whether or not a house is unfit for human habitation.

(k) "**Not capable at a reasonable expense of being rendered so fit.**"—See note (g) to s. 11.

(l) "**Serve.**"—The provisions relating to the service of notices, etc., are contained in s. 167, p. 293, *post*. See also *West Ham Corporation v. Benabo (Charles) & Sons*, [1934] 2 K. B. 253; 98 J. P. 287; Digest Supp., where ATKINSON, J., said: "It seems to me that one would get into all sorts of difficulties if one took the view that it was not an essential part of the statutory demand that it should come from the proper quarter and be signed by the clerk or his deputy. At any rate, I hold that the proper signature is an essential part of a proper demand."

(m) "**Person having control.**"—See sub-ss. (2) and (4) of this section, and note the important provision for the protection of agents and trustees effected by sub-s. (3) of the next section.

(n) "**A notice.**"—For prescribed form of notice, see S. R. & O. 1937, No. 78, Form 2, at p. 502, *post*. The notice must be signed by the clerk or his lawful deputy. Section 15, *post*, gives a right of appeal against this notice to the County Court within the jurisdiction of which the premises are situated.

(o) "**Reasonable time.**"—What constitutes a "reasonable time" is a question of fact and will, of course, depend largely on the nature and extent of the repairs to be executed. At least twenty-one days must be allowed. (See further *Ryall v. Cubitt Heath*, [1922] 1 K. B. 275; 86 J. P. 15; 38 Digest 215, 498, *per* DARLING, J.)

(p) "**The works.**"—The notice should specify in some detail the works to be executed, and be sufficiently definite to enable an owner to ascertain what is required of him; on this see the observations of MAUGHAM, J., in *Cohen v. West Ham Corporation*, as reported in 149 L. T. 271, at p. 273; Digest Supp. The question may be raised that certain of the works required by the local authority to be executed are not such works as can lawfully be required under this section. The test would appear to be not whether any particular work is "desirable" but whether it is necessary in order to make the house fit for human habitation (*Adams v. Tuer* (1923), 130 L. T. 218; 87 J. P. 193; 38 Digest 215, 501). If it is not necessary, then it is submitted that it cannot be insisted upon. Attention is drawn to the definition of "sanitary defect" in s. 188 (1), and to s. 188 (4) (p. 314, *post*).

(q) **Sub-s. (2).**—Notice that in accordance with the provisions of sub-s. (1) a notice *must* be served on the person having control of the house, but it *may* be served on the persons mentioned in this sub-section. By s. 19 (1) it is, however, provided that "if any owner of any house, who is not the person in receipt of the rent and profits thereof, gives notice to the local authority of his interest in the house, the authority shall give to him notice of any proceedings taken by them in pursuance of this part of this Act in relation to the house." Where notice has been served the tenant may require a certificate from the sanitary authority that the house "is not in a reasonable state of repair" for the purposes of s. 5 of the Rent and Mortgage Interest Restrictions Act, 1923. See s. 12, Rent and Mortgage Interest Restrictions (Amendment) Act, 1933 (26 Halsbury's Statutes 276). (See also ss. 161, 162 and 169, pp. 289, 290, 294, *post*.)

(r) "**Regard shall be had,**" etc.—In *Cohen v. West Ham Corporation*, [1933] Ch. 814; 97 J. P. 155; Digest Supp., Lord HANWORTH, M.R., said: "That word 'regard' is intended to be a loose and indefinite term. I think it enables the local authority to take into account not merely an accurate estimate made by a surveyor or an estate agent with a schedule of dilapidations, but to take into account what would probably be the cost of the outlay required, and to consider whether after that outlay had been incurred, it would be possible to let the house and get a return for the total expenditure upon the premises." (See, further, note (g) to s. 11, p. 74, *post*.)

(s) **Sub-s. (4).**—These definitions are the same as the definitions of “owner” and “rack-rent” respectively for the purposes of the Public Health Act. See Public Health Act, 1875, s. 4 (13 Halsbury’s Statutes 624) and Public Health Act, 1936, s. 343 (29 Halsbury’s Statutes 536).

10. Enforcement of notice requiring execution of works.—(1) If a notice under the last foregoing section requiring the person having control (*a*) of a house to execute works is not complied with, then, after the expiration of the time specified in the notice (*b*) or, if an appeal has been made against the notice (*c*) and upon that appeal the notice has been confirmed with or without variation, after the expiration of twenty-one days from the final determination of the appeal, or of such longer period as the court in determining the appeal may fix, the local authority may themselves do the work (*d*) required to be done by the notice, or by the notice as varied by the court (*e*), as the case may be.

(2) Where the local authority are about to enter upon a house under the provisions of the last foregoing subsection for the purpose of doing any work, they may give to the person having control of the house and, if they think fit, to any other person (*f*) being an owner of the house, notice in writing of their intention so to do, and if at any time after the expiration of seven days from the service upon him of the notice and whilst any workman or contractor employed by the local authority is carrying out works in the house, any person upon whom the notice was served or any workman employed by him, or by any contractor employed by him, is in the house for the purpose of carrying out any works, the person upon whom the notice was served shall be deemed to be (*g*) obstructing the local authority in the execution of this Act and liable on summary conviction (*h*) to a fine not exceeding twenty pounds, unless he proves to the satisfaction of the court before which he is charged that there was urgent necessity to carry out the works in order to obviate danger to occupants of the house.

(3) Any expenses incurred by the local authority under this section, together with interest, at such rate (*i*) as the Minister may with the approval of the Treasury from time to time by order fix, from the date when a demand for the expenses is served until payment, may, subject as hereinafter provided, be recovered (*j*) by them, by action or summarily as a civil debt (*k*), from the person having control of the house or, if he receives the rent of the house as agent or trustee for some other person, then either from him or

from that other person, or in part from him and as to the remainder from that other person :

Provided that, if the person having control of the house proves that he—

- (a) is receiving the rent merely as agent or trustee for some other person ; and
- (b) has not, and since the date of the service on him of the demand has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the authority ;

his liability shall be limited to the total amount of the money which he has, or has had, in his hands as aforesaid (l).

(4) In all summary proceedings by the local authority for the recovery of any such expenses, the time within which the proceedings may be taken shall be reckoned from the date of the service of the demand or, if an appeal is made against that demand, from the date on which the demand becomes operative.

(5) The local authority may by order declare any such expenses to be payable by weekly or other instalments within a period not exceeding thirty years with interest at such rate as the Minister may, with the approval of the Treasury, from time to time by order fix, from the date of the service of the demand until the whole amount is paid, and any such instalments and interest, or any part thereof, may be recovered summarily as a civil debt from any owner or occupier of the house, and, if recovered from an occupier, may be deducted by him from the rent of the house.

(6) The amount of any expenses and interest thereon due to a local authority under this section shall be a charge on the premises (m) in respect of which the expenses were incurred, and the local authority shall for the purpose of enforcing that charge have all the same powers and remedies under the Law of Property Act, 1925, and otherwise as if they were mortgagees by deed having powers of sale and lease, of accepting surrenders of leases and of appointing a receiver.

(7) No action taken under this, or the last preceding, section shall prejudice or affect any other powers of the local authority, or any remedy available to the tenant of a house against his landlord, either at common law or otherwise (n).

NOTES TO SECTION 10

General Note.—This section reproduces s. 18 of the Act of 1930. It provides that on failure by the person having control of the house to execute the specified works, the local authority may themselves do the work required

to be done by the notice and recover the expenses from the person having control of the premises or from his principal or beneficiary, as the case may be (see sub-s. (3)). The local authority may declare the expenses to be payable by instalments, weekly or otherwise, with interest. Such instalments may be recovered from the occupier, who, if he pays them, may deduct them from his rent. The amount of these expenses are to be a charge on the premises in respect of which they were incurred. The provision contained in sub-s. (2) should be noticed. Where a local authority are about to enter on premises to carry out work they *may* give to the person having control, and to any other *owner* of the house, notice in writing of their intention so to do, and if after seven days from the service of such notice upon him *and* while any workman or contractor employed by the local authority is carrying out works in the house, any person upon whom the notice was so served or any workman or contractor employed by him is in the house for the purpose of carrying out the works in the house, the person upon whom the notice was served shall be deemed to be obstructing the local authority in the execution of this Act and liable to a fine of £20 unless he can prove that there was urgent necessity to carry out the said works in order to obviate danger to the occupants. In order, therefore, that an owner or person having control should become liable to this penalty, the following conditions must be fulfilled :

- (i) He must be served with the notice ; and
- (ii) Seven days must have elapsed from the date of such service ; and
- (iii) A workman or contractor employed by the local authority must be carrying out the works ; and
- (iv) The person served with the notice or any workman or contractor must be in the house *for the purpose of carrying out works* ; and
- (v) Such works must be works that are *not* urgently necessary to prevent danger to the occupants of the house.

(a) "**Person having control.**"—For meaning of this phrase see s. 9 (4), p. 63, *ante*.

(b) "**Time specified in the notice.**"—As to this see note (o) to s. 9, p. 66, *ante*.

(c) "**Appeal against notice.**"—See s. 15, p. 81, *post*.

(d) "**The local authority may themselves do the work.**"—Note the provision in sub-s. (7) of this section.

(e) "**Notice as varied by the court.**"—As to the power of a county court judge on appeal, see s. 15 (2), p. 81, *post*.

(f) "**Notice on any other person.**"—The notice here mentioned is optional, but it appears that an owner who has fulfilled the conditions mentioned in s. 19 (1), p. 88, *post*, will be entitled to such a notice.

(g) "**Shall be deemed to be.**"—For the effect of these words see *R. v. Norfolk County Council* (1891), 60 L. J. Q. B. 379 ; 56 J. P. 7 ; 26 Digest 267, 74 ; *Green v. Marsh*, [1892] 2 Q. B. 330 ; 56 J. P. 839 ; 35 Digest 397, 1391 ; as to penalties for obstructing execution of Act, see also s. 158, p. 287, *post*.

(h) "**On summary conviction.**"—A person convicted under this subsection and fined may be sent to prison in default of distress.

(i) The rate is fixed from time to time by the Treasury.

(j) **Recovery of expenses.**—It was held in *West Ham Corporation v. Benabo (Charles) & Sons*, [1934] 2 K. B. 253 ; 98 J. P. 287 ; Digest Supp., that a notice for the payment of expenses in respect of the execution of works is invalid (a) unless it is signed by the clerk or deputy clerk to the council in accordance with the provisions of s. 164 (2), which reproduces s. 120 (2) of the Act of 1925 ; (b) unless it is a demand for a definite and certain sum in respect of such house.

As to appeals against demands for the recovery of expenses, see s. 15, p. 81, *post*.

In *Benabo v. Wood Green Borough Council*, [1946] K. B. 38, [1945] 2 All E. R. 162; 109 J. P. 222; 2nd Digest Supp., the local authority served notice on an appellant under s. 9 calling on him to repair. On his default the authority did the work and served a demand for recovery under s. 10. The appellant refused to pay, contending that the house was let as two separate tenements and should have been treated as two separate houses and that he had not been served with particulars of the expense incurred and had had no opportunity of challenging the amount. *Held*, that notice was good as building was one house though it might be two dwellings for the purposes of the Rent and Mortgage Interest (Restrictions) Acts or Rating Acts. The items in the account should have been challenged under s. 15. If such right is not exercised it cannot be raised in proceedings under s. 10.

This decision is in line with s. 290 (7) of the Public Health Act, 1936 (29 Halsbury's Statutes 510), whereunder, in proceedings for the recovery of expenses on an abatement notice in relation to a nuisance under s. 92, it is not open to the person served to raise any question which he could have raised on an appeal against the notice under s. 290 (3).

(h) "**Summarily as a civil debt.**"—The procedure to recover as a civil debt is by complaint to a court of summary jurisdiction, and such court is authorised to make an order for the payment (see Summary Jurisdiction Act, 1879, s. 35; 11 Halsbury's Statutes 342). A warrant will not be issued for apprehending any person for failing to appear to answer any such complaint, and the order is not to be enforced by imprisonment, except after proof of means on judgment summons in the same way as is provided in the case of debts under s. 5 of the Debtors Act, 1869 (16 Halsbury's Statutes 256).

(l) **Proviso to sub-section (3).**—This important proviso, enacted for the protection of agents and trustees, should be carefully noted. It limits the liability of agents and trustees who are by the definition contained in sub-s. (4) of the preceding section persons having control of the house.

(m) "**Charge on the premises.**"—This charge must be registered in the local land charges register (s. 15 (4), Land Charges Act, 1925; 15 Halsbury's Statutes 539). The charge created by the corresponding provision of the Act of 1925 (s. 3, repealed) was held to be a charge upon the entirety of the interests of the premises (*Paddington Borough Council v. Finucane*, [1928] Ch. 567; 92 J. P. 68; Digest Supp.), and ranks in priority to a perpetual yearly rent-charge thereon, whether such rent-charge is created by grant or reservation (*Bristol Corporation v. Virgin*, [1928] 2 K. B. 622; 92 J. P. 145; Digest Supp.). In proceedings to enforce the charge it was held that it was sufficient if in the first place the rack-rent owner was brought before the court and there was no obligation upon the local authority to make inquiries under s. 3 (8) to ensure that all the persons interested were before the court (*Paddington Borough Council v. Finucane*, [1928] Ch. 567; 92 J. P. 68; Digest Supp.). See also *Bromley Rural District Council v. Brooker*, [1934] W. N. 237.

(n) "**Or otherwise.**"—As to statutory conditions see ss. 2 and 3, p. 48, *ante*.

11. Power of local authority to order demolition of insanitary house.—(1) Where a local authority (a), upon consideration of an official representation (b), or a report from any of their officers, or other information in their possession, are satisfied (c) that any house (d) which is occupied, or is of a type suitable for occupation, by persons of the working classes (e), is unfit for human habitation (f) and is not capable at a reasonable expense of being rendered so fit (g), they shall serve (h) upon the

person having control (*i*) of the house, upon any other person who is an owner (*j*) thereof, and, so far as it is reasonably practicable to ascertain such persons, upon every mortgagee thereof, notice (*k*) of the time (being some time not less than twenty-one days after the service of the notice) and place at which the condition of the house and any offer (*l*) with respect to the carrying out of works, or the future user of the house, which he may wish to submit will be considered by them, and every person upon whom such a notice is served shall be entitled to be heard (*m*) when the matter is so taken into consideration.

(2) (*n*) A person upon whom notice (*o*) is served under the foregoing subsection shall, if he intends to submit an offer with respect to the carrying out of works, within twenty-one days from the date of the service of the notice upon him, serve upon the authority notice in writing of his intention to make such an offer and shall, within such reasonable period as the authority may allow, submit to them a list of the works which he offers to carry out.

(3) The authority may (*p*) if, after consultation with any owner or mortgagee, they think fit so to do, accept an undertaking (*q*) from him, either that he will within a specified period carry out such works as will in the opinion of the authority render the house fit for human habitation, or that it shall not be used for human habitation until the authority, on being satisfied that it has been rendered fit for that purpose, cancel the undertaking.

(4) If no such undertaking as is mentioned in the last foregoing subsection is accepted by the authority, or if, in a case where they have accepted such an undertaking, any work to which the undertaking relates is not carried out within the specified period, or the house is at any time used in contravention of the terms of the undertaking, the authority shall (*r*) forthwith make a demolition order (*s*) requiring that the house shall be vacated within a period to be specified in the order, not being less than twenty-eight days from the date on which the order becomes operative, and that it shall be demolished within six weeks after the expiration of that period or, if the house is not vacated before the expiration of that period, within six weeks after the date on which it is vacated, or in either case within such longer period as in the circumstances the local authority deem it reasonable to specify, and shall serve a copy of the order (*t*) upon every person upon whom they would be required by subsection (*i*) of this section to serve a notice issued by them under that subsection.

NOTES TO SECTION 11

General Note.—This section reproduces s. 19 of the Act of 1930 as amended by s. 83 of the Act of 1935.

Subject to a right of appeal to the County Court (s. 15, *post*), this section empowers a local authority to require the demolition of houses which are unfit for human habitation and which in their opinion are not capable of being repaired at a reasonable expense. The section, however, recognises that in some cases an owner may be willing to render his property fit for human habitation notwithstanding the expense and, in this case, the local authority *may*, if they *think fit to do so*, accept his undertaking to carry out the necessary works within a specified time. Alternatively the local authority *may* accept an undertaking from the owner that the house will not be used for human habitation until it has been rendered fit for that purpose.

In the event of a breach of any such undertaking the local authority are required to make a demolition order.

An owner giving an undertaking under this section is not prevented by the Rent and Mortgage Interest (Restrictions) Acts, 1920 to 1933 (26 Halsbury's Statutes 266), from recovering possession of his premises (s. 156 (1), p. 285, *post*).

The following are the steps which must be followed in the making of a demolition order :

- (1) The authority must be satisfied that the house, which must be a house occupied or of a type suitable for occupation by the working classes, is unfit for human habitation and not capable of being rendered so fit at a reasonable expense.
- (2) They must serve a notice upon—
 - (a) the person having control of the house (s. 9 (4), *ante*) ; and
 - (b) the owner of the house (s. 188 (1), p. 311, *post*) ; and so far as it is reasonably practicable to ascertain such persons,
 - (c) upon every mortgagee thereof.

stating (i) a time (which must not be less than twenty-one days after the service of the notice) when ; and

(ii) the place at which they will take into consideration the condition of the house, and any offer with respect to the carrying out of works or the future user of the house which any person upon whom the notice is served may wish to make.

- (3) A person upon whom such notice is served must, if he intends to submit an offer with respect to the carrying out of works, serve a notice in writing of his intention on the local authority within twenty-one days from the date of the service of the notice on him and must within such reasonable period as the authority allow submit to them a list of the works which he offers to carry out. **Any person who wishes to submit such offer should follow carefully the procedure laid down in the section, otherwise on any appeal the County Court Judge cannot accept an undertaking to carry out works.**
- (4) If a person on whom such notice is served desires to be heard, the authority must hear him and take into consideration any representations he may make on the matter.
- (5) The authority, after consultation with any owner or mortgagee, *may* accept an undertaking from him that either (i) he will within a specified period carry out such works as will in the opinion of the authority render the house fit for human habitation ; or
 - (ii) that it shall not be used for human habitation until the authority, on being satisfied that it has been rendered fit for that purpose, cancel the undertaking.
- (6) The authority must forthwith make a demolition order in the following circumstances :
 - (a) if no undertaking is given ; or

- (b) if an undertaking is given and any work to which it relates is not carried out within the specified time; or
 - (c) the house is used at any time in contravention of the terms of the undertaking.
- (7) The authority after making a demolition order must serve a copy on every person upon whom they are required to serve a notice by sub-section (1) of this section.

(a) "**Local authority.**"—See s. 1, p. 47, *ante*, and for London, s. 24, p. 94, *post*.

(b) "**Official representation.**"—See s. 154, *post*, note (c) to s. 9, p. 62, *ante*, and the definition in s. 188, p. 311, *post*.

It must be noted that the Demolition Order procedure is usually only resorted to in the case of a single isolated house. Where there are two or more unfit houses forming "an area" it is more convenient from the local authority's point of view to represent the area as a clearance area. Medical officers are advised to study the case of *Hall v. Manchester Corporation*, (1915), 79 J. P. 385; 38 Digest 212, 470, for although this case was decided under a local Act, it is highly relevant to s. 11 of this Act. The Minister's standard for a fit house (see note (h) to s. 25, p. 99, *post*) is not binding on a County Court Judge, and it is probable that even the Minister himself would not condemn a house because it did not conform in every respect with this standard. In clearance area inquiries it suffices to state that for example a wall is "bulged," but before the County Court Judge it will be necessary to show that the bulged condition of the wall affects the fitness of the house for human habitation. If rising damp is relied on as a ground for condemning the house, the degree and extent of the dampness must be stated. The County Court will undoubtedly take the view that it is a serious matter to compel a person to demolish his property at his own expense without compensation, and will require satisfactory evidence that the condition of the house is such as to justify such action. Medical officers are therefore advised not to recommend procedure under this section unless they can point to really serious defects. At local inquiries it is often stated that the window areas fall short of the area prescribed by the byelaws. Cross-examination often brings out the fact that the degree by which the window area falls short of the byelaw standard is very slight. Defective door catches, rooms a few inches below the byelaw standard, cracked ceilings, afford further examples of trivial points which it is better to omit from the report and from evidence in Court, in the event of an appeal. The Medical Officer should be prepared to say in what way any defect on which he relies renders or tends to render the house unfit for human habitation.

In a case where standard defects are relied on the Medical Officer should have no hesitation in consulting his colleague the surveyor. Some medical officers take the view that they gain sufficient experience during the course of their careers to enable them to speak with the same authority about structural defects as they do about sanitary defects. A little knowledge in matters relating to architecture, engineering and surveying, etc., is as dangerous as a little knowledge of medicine. In the event of an appeal to the County Court, the appellant's expert witnesses will include at least one architect or surveyor. If the authority can support the evidence of their Medical Officer with the evidence of their surveyor, they will considerably strengthen their case. As there is always a possibility of an appeal when action is taken under this section, it is advisable to obtain the opinion of the surveyor before making the order.

The Medical Officer is generally consulted by his committee as to whether an undertaking to repair should be accepted. If the owner offered to remedy all the defects, it would be very difficult to sustain a demolition order on appeal. When the undertaking falls short of remedying all the defects alleged to exist, it becomes a question of whether the remaining defects will, in themselves, render the house unfit for human habitation. Are these remaining defects so serious that they will affect the health or comfort of the occupants?

Care must be exercised in the applications of s. 188 (4), p. 314, *post*. Note that the words of this sub-section are not the extent, if any, to which the house falls short of the provisions of any byelaws in operation in the district, but "the extent, if any, to which *by reason of disrepair or sanitary defects* the house falls short of any byelaws in operation in the district . . ."

Before alleging that a room is dark or insufficiently lighted, it is essential to see that the tenant is not responsible for this condition by leaving the curtains or blinds partially drawn at the time of inspection. Similarly an ill-ventilated room may be due to the failure of the tenant to use the existing means of ventilation. Even where a house is somewhat obstructed and overshadowed by a neighbouring building adequate ventilation may sometimes be obtained by opening the window—it depends, of course, on the circumstances. A practical test should be made rather than to place reliance on theoretical considerations. The presence of an open fireplace in a room has an important bearing on the question of whether a room receives adequate ventilation even though the window is partially obstructed. It is a common practice to state that the walls "show signs of rising damp." Either the walls are damp or they are not. If they are not damp at the time of inspection but "show signs of damp," it is advisable to make further inspection to see if the damp has come through again.

(c) "**Are satisfied.**"—As to this see *Fletcher v. Ilkeston Corporation* (1931), 96 J. P. 7; Digest Supp. SCRUTTON, L.J., said at p. 10: "It seems to me perfectly obvious that the satisfaction with which the corporation begins is a temporary satisfaction on information then before them, open to be modified or completely changed when the owner of the house gives them further information, or makes a further offer to execute certain works."

It must be noted also that notwithstanding that the local authority satisfy themselves on proper material that a demolition order ought to be made under this section, they may be overruled by a County Court Judge on an appeal under s. 15. See *Fletcher v. Ilkeston Corporation* (*supra*); *Johnson v. Leicester Corporation*, [1934] 1 K. B. 638; 98 J. P. 165; Digest Supp.

(d) "**House.**"—See s. 188 and notes thereto, p. 311, *post*, and note that by s. 23, *post*, certain temporary shelters are for the purposes of this part of the Act included in the term "house." A demolition order can therefore be made in respect of them.

(e) "**Working classes.**"—See note (c) to s. 4 and note (f) to s. 6, and see also s. 12 (2), which relates to underground rooms.

(f) "**Unfit for human habitation.**"—See note (j) to s. 9, p. 65, *ante*, and note (h) to s. 25, p. 99, *post*, s. 188 (1)–(4), p. 311, *post*, and s. 12 (2), *post*.

(g) "**Not capable at a reasonable expense of being rendered so fit.**"—As to these words see the remarks of STESSER, L.J., in *Johnson v. Leicester Corporation*, [1934] 1 K. B. 638; 98 J. P. 165; Digest Supp.; where he said: "I would observe at the outset, that in considering whether the house is capable at a reasonable expense of being rendered fit for human habitation, the reasonableness of the expense must be considered objectively. They have to consider the general position of the house, the cost of labour and building material, the situation of the town and the like and the reasonable expense—not at that stage, at any rate, what the owner thinks to be reasonable, because he has not yet been called into consultation. They have to make that decision, one might say *ex parte* and unaided by the views of the owners."

(h) "**Shall serve.**"—For service of notices, see s. 167, p. 293, *post*, and for prescribed notice, see p. 504, *post*.

(i) "**Person having control.**"—For definition of this phrase, see s. 9 (4), p. 63, *ante*.

(j) "**Owner.**"—See definition in s. 188 (1), p. 311, *post*.

(k) "**Notice.**"—For prescribed notice, see p. 504, *post*.

(l) "**Any offer.**"—See sub-s. (2), *infra*.

(m) "**Shall be entitled to be heard.**"—The local authority must hear such persons judicially (*Broadbent v. Rotherham Corporation*, [1917] 2 Ch. 31; 81 J. P. 193; 28 Digest 466, 775). Care should be taken by the local authority not to give persons appearing before them under this section the impression that they (the local authority) have finally and conclusively determined the matter and that nothing which the persons appearing before them can say will alter or affect their determination. Obviously, all offers or undertakings put forward should receive the most careful consideration and only be rejected for reasons which in the event of an appeal to the County Court will appear convincing.

(n) **Sub-s. (2).**—This sub-section was by s. 83 (1) of the Act of 1935 directed to be inserted in s. 19 of the Act of 1930, which this section reproduces as so amended. In *Johnson v. Leicester Corporation*, [1934] 1 K. B. 638; 98 J. P. 165; Digest Supp., SCRUTTON, L.J., considered it desirable that all offers to do works whether made to the local authority or to the County Court shall be in writing. This sub-section makes compulsory the suggestion of the Lord Justice. An owner who intends to submit proposals for the carrying out of works to his property must (1) serve upon the local authority, within twenty-one days of the service of notice upon him, a notice in writing of his intention to submit such proposals; (2) submit a list of the proposed works within such reasonable period as the authority allow.

This provision will to some extent complicate the procedure under sub-s. (1). Under that sub-section the owner is entitled to be heard by the local authority at some date not less than twenty-one days after the service of the notice on him. It is clearly desirable that before the date of the hearing the local authority should be in possession of any list of works proposed to be carried out by the owner. By this new sub-section he has twenty-one days in which to make up his mind and notify the local authority of his intention to submit an offer with respect to such proposed works, and a further period allowed by the authority, which must be a reasonable period, in which to submit the list of the proposed works. While complying with the Act, therefore, the owner may not be in a position to submit the proposed works for a period much in excess of the twenty-one days from the date of the service of the notice on him. In these circumstances it may well be desirable for local authorities to fix such a time for the hearing that ample opportunity will be given to the owner to comply with the terms of this sub-section and to the authority to consider any list of works submitted to them before the hearing.

It will be useless for owners who fail to comply with the terms of this sub-section to make such an offer to the County Court Judge on appeal. See s. 15 (2), p. 81, *post*.

(o) "**Notice.**"—As to service of notices on a local authority, see s. 166, p. 293, *post*.

(p) "**May.**"—It is important to note that the local authority are not obliged to accept the undertaking. On appeal to the County Court, however, the judge is empowered, subject to compliance by the owner with sub-section (2), to accept from the appellant any such undertaking as might have been accepted by the local authority (s. 15 (2), *post*).

(q) "**An undertaking.**"—It appears there is no limitation on the kind of undertaking which may be given by the owner and accepted by the local authority under this sub-section. In *Johnson v. Leicester Corporation*, *supra*, SLESSER, L.J., in considering the corresponding provisions under the Act of 1930, said at p. 647: "I cannot see that there is any limitation as to what sort of an undertaking an individual may give under s. 19, sub-s. (2). *Ex hypothesi*, before s. 19 comes into operation at all, the local authority have already satisfied themselves that the repairs cannot be carried out at a reasonable expense, as mentioned in s. 17, because, if it is a house which can be repaired at a reasonable expense, then it is one which they are satisfied could come within ss. 17 and 18. That, however, does not

mean that the owner under s. 19, sub-s. (2), cannot give any undertaking which he thinks fit to give. . . . In my view the owner is entitled under s. 19 (2) to give any undertaking which he thinks fit."

In the same case the court held that the conversion of two unfit houses into one fit house was an undertaking which might be accepted by the local authority and on appeal by the judge.

It was held that when the stage of consultation with the owner is reached it is no concern of the local authority whether the sum which the owner is prepared to spend is reasonable or not. Their only concern is whether the house can or cannot be made fit: *Stidworthy v. Brixham U.D.C.* (1935), 2 L. J. C. C. R. 41; *Coleman v. Dorchester R.D.C.*, *ibid.*, 113.

(r) "**Shall.**"—Note that it becomes obligatory on the part of the local authority in the circumstances mentioned in this sub-section to make a demolition order.

(s) "**Demolition order.**"—See prescribed forms, *post*, p. 504. An appeal lies to the County Court against this order (s. 15, *post*). S. 155 (1), p. 283, *post*, provides for the service of a notice on the occupier, stating the effect of a demolition order which has become operative.

(t) "**Copy of the order.**"—See prescribed form, p. 505, *post*. It would seem that the copy of the order must be in the prescribed form and, it is submitted, must contain the note attached to that form setting out rights of appeal, etc. See *Rayner v. Stepney Corporation*, [1911] 2 Ch. 312; 75 J. P. 468; 38 Digest 212, 471. *Re Bowman, South Shields (Thames Street Clearance Order, 1931, [1932] 2 K. B. 621; 96 J. P. 207; Digest Supp.*, was distinguished from *Rayner v. Stepney Corporation*, *supra*.

12. Power to make a closing order as to part of a building.—(1) A local authority (a) may under this Part of this Act take the like proceedings (b) in relation to any part of a building which is occupied, or is of a type suitable for occupation, by persons of the working classes (c), or in relation to any underground room (d) which is for the purposes of this section to be deemed to be unfit for human habitation, as they are empowered to take in relation to a house, subject, however, to this qualification that, in circumstances in which, in the case of a house, they would have made a demolition order, they shall make a closing order prohibiting the use of the part of the building or of the room, as the case may be, for any purpose other than a purpose approved by the local authority (e), but—

- (a) the approval of the authority shall not be unreasonably withheld; and
- (b) the authority shall determine the closing order on being satisfied that the part of the building or the room to which it relates has been rendered fit for human habitation.

(2) A room the surface of the floor of which is more than three feet below the surface of the part of the street adjoining or nearest to the room, or more than three feet below the surface of any ground within nine feet of the room, shall for the purposes of this section be deemed to be unfit for human habitation, if either—

- (a) the average height of the room from floor to ceiling is not at least seven feet ; or
- (b) the room does not comply with such regulations as the local authority with the consent of the Minister may prescribe for securing the proper ventilation and lighting of such rooms, and the protection thereof against dampness, effluvia, or exhalation :

Provided that, if the local authority, after being required to do so by the Minister, fail to make regulations, or such regulations as the Minister approves, the Minister may himself make regulations which shall have effect as if they had been made by the local authority with the consent of the Minister.

NOTES TO SECTION 12

History of the Section.—Sub-section (1) of this section reproduces s. 84 (1) of the Act of 1935, which was in substitution for s. 20 of the Act of 1930, and sub-s. (2) reproduces s. 18 (1) of the Act of 1925 as amended by the Act of 1930 and s. 84 (2) of the Act of 1935.

Provisions relating to cellar dwellings are included in the Public Health Acts (see Public Health Act, 1875, ss. 71-75 ; 13 Halsbury's Statutes 655-656 ; Public Health (London) Act, 1891, ss. 96-98 ; 11 Halsbury's Statutes 1077-1079) ; but see now the Public Health (London) Act, 1936, ss. 132-134 (30 Halsbury's Statutes 517-519).

General Note.—Sub-section (1) is applicable in two cases :

- (a) where part only of a building, which is occupied, or is of a type suitable for occupation by the working classes, is unfit for human habitation ;
- (b) where the subject-matter of the complaint is an underground room which is deemed to be unfit for human habitation under sub-section (2) of this section.

A local authority can deal with such cases as with an unfit house, save that where in the case of an unfit house they can make a demolition order, they can in these cases make a closing order only prohibiting the use of the part of the building or underground room for any purpose other than a purpose approved by the local authority. The authority must determine the closing order on being satisfied that the part of the building or the room to which it relates has been rendered fit for human habitation.

An appeal lies to the county court against (1) a closing order, (2) a refusal to determine a closing order, (3) a withholding of approval in relation to the use for any purpose of premises in respect of which a closing order is in force (s. 15, *post*).

The following forms of notices and orders have been prescribed :

- (i) Notice of time and place at which the making of a closing order in respect of part of a building will be considered (p. 512, *post*).
- (ii) Closing order on part of a building (p. 512, *post*).
- (iii) Order determining closing order in respect of part of a building (p. 513, *post*).
- (iv) Notice of refusal of local authority to determine a closing order in respect of part of a building (p. 514, *post*).

Sub-section (2) applies to all rooms which fall within its terms whether they are occupied or of a type suitable for occupation by the working classes or not. All such basement rooms which are on the average under seven feet in height are in any case to be deemed unfit for human habitation. In addition such basement rooms as are above that height are to be deemed

unfit if they fail to comply with the prescribed regulations. The Minister has issued a model series of regulations.

(a) "**Local authority.**"—See s. 1, p. 47, *ante*, and for local authorities in London for the purposes of this part of the Act, s. 24, p. 94, *post*. As to the powers of the London County Council on the default of a metropolitan borough council, see s. 175, p. 301, *post*.

(b) "**The like proceedings.**"—That is to say, a local authority may serve a notice requiring the execution of works under s. 9, or they may make a closing order in relation to part of a building where the circumstances are such that, had they been dealing with the whole building, they could have made a demolition order. It appears, if they propose to make a closing order, that they will be bound to follow the procedure laid down in s. 11 for demolition orders—they must serve a notice and give the person having control a hearing. If the owner or other person wishes to make an offer to carry out works, he will be bound to comply with the provisions of sub-section (2).

(c) "**Working classes.**"—See note (f) to s. 6, p. 57, *ante*.

(d) "**Any underground room.**"—*I.e.* rooms which fall within the provisions of sub-s. (2). The operation of the Act in respect to such rooms is not confined to houses which are occupied or suitable for occupation by the working classes. Under s. 18 (1) of the Act of 1925 the definition was limited to underground rooms habitually used as a sleeping place, and if they were not so used they were not deemed to be unfit for human habitation. This limitation was repealed by s. 84 (2) of the Act of 1935 and the sub-section as so extended is here reproduced.

(e) "**For any purpose other than a purpose approved by the local authority.**"—Before the Act of 1935 came into force, closing orders could only prohibit the use of the part of the building for human habitation, and in the case of an underground room, the use of the room for the purpose of a sleeping place. Section 84 of the 1935 Act, which this sub-section reproduces, therefore effected a very important modification of the law and considerably extends the local authority's power of control. It must be noted, however, that an appeal lies to the county court against the refusal of the local authority to approve a proposed user of a closed part of a building or underground room as well as against the closing order itself, and against a refusal of the local authority to determine a closing order when it is alleged that that part of the building or underground room has been made fit for human habitation. The following ground of appeal is suggested in the case where the local authority refuse to give their approval to a proposed user of the closed part of the building or the underground room:

"That the local authority have acted arbitrarily and unreasonably in withholding their approval."

13. Procedure where demolition order made.—

(1) When a demolition order under this Part of this Act has become operative, the owner (a) or owners of the house to which it applies shall (b) demolish that house within the time limited in that behalf (c) by the order; and, if the house is not demolished within that time, the local authority shall enter and demolish the house and sell the materials thereof.

(2) Any expenses incurred by an authority under the foregoing subsection, after giving credit for any amount

realised by the sale of materials, may be recovered by them as a simple contract debt from the owner of the house or, if there is more than one owner, from the owners thereof in such shares as the judge may determine to be just and equitable; and any owner who pays to the authority the full amount of their claim may in the like manner recover from any other owner such contribution, if any, as the judge may determine to be just and equitable.

(3) Any surplus in the hands of the authority shall be paid by them to the owner of the house, or if there is more than one owner, shall be paid as those owners may agree. If there is more than one owner and the owners do not agree as to the division of the surplus, the authority shall be deemed by virtue of this subsection to be trustees of the surplus for the owners of the house, and section sixty-three of the Trustee Act, 1925 (*d*) (which relates to payment into court by trustees) shall have effect accordingly.

(4) The county court within the jurisdiction of which the house is situate shall have jurisdiction to hear and determine any proceedings under subsection (2) of this section, and shall have jurisdiction under section sixty-three of the Trustee Act, 1925, in relation to any such surplus as is mentioned in subsection (3) of this section.

(5) A county court judge, in determining for the purposes of this section the shares in which any expenses shall be paid or contributed by, or any surplus shall be divided between, two or more owners of a house, shall have regard to their respective interests in the house, their respective obligations and liabilities in respect of maintenance and repair under any covenant or agreement, whether expressed or implied, and all the other circumstances of the case.

NOTES TO SECTION 13

History.—Sub-section (1) replaces sub-s. (1) of s. 21 of the 1930 Act, which replaced s. 15 of the 1925 Act, which in turn reproduced s. 34 of the Housing of the Working Classes Act, 1890, and s. 9 of the Housing of the Working Classes Act, 1903.

Sub-sections (2) to (5) reproduce with modifications sub-s. (4) of s. 2 of the 1930 Act.

General Note.—This section prescribes the procedure to be followed by the local authority in a case where an owner fails to demolish a house in accordance with the terms of a demolition order.

Sub-sections (2) to (5) are, by s. 26, p. 103, *post*, made applicable to clearance orders under s. 25, which replaces s. 1 of the Act of 1930.

(a) “**Owner.**”—See definition in s. 188 (1), p. 311, *post*.

(b) “**Shall.**”—The owner or owners *must* pull down the house. On default the local authority *must* themselves demolish the house and recover their expenses. See also s. 26 (4).

(c) "**Time limited in that behalf.**"—See s. 11 (4), p. 71, *ante*, but see also s. 17, *post*, which gives the authority power to cleanse a condemned house from vermin before its demolition and may result in an extension of the time limit for this purpose.

(d) **Trustee Act, 1925, s. 63.**—The section provides that:—

- (1) Trustees, or the majority of trustees, having in their hands or under their control money or securities belonging to a trust, may pay the same into court; and the same shall, subject to rules of court, be dealt with according to the order of the court.
- (2) The receipt or the certificate of the proper officer shall be a sufficient discharge to trustees for the money or securities so paid into court.
- (3) Where money or securities are vested in any persons as trustees, and the majority are desirous of paying the same into court, but the concurrence of the other or others cannot be obtained, the court may order the payment into court to be made by the majority without the concurrence of the other or others.
- (4) Where any such money or securities are deposited with any banker, broker, or other depositary, the court may order payment or delivery of the money or securities to the majority of the trustees for the purpose of payment into court.
- (5) Every transfer, payment and delivery made in pursuance of any such order shall be valid and take effect as if the same had been made on the authority or by the Act of all the persons entitled to the money and securities so transferred, paid or delivered.

14. Penalty for using premises in contravention of closing order or of an undertaking.—Any person who, knowing that a closing order (a) has become operative and applies to any premises, or that an undertaking has been given under this Part of this Act that any premises shall not be used for certain purposes specified in the undertaking, uses those premises in contravention of the order or undertaking, or permits them to be so used, shall on summary conviction be liable to a fine not exceeding twenty pounds and to a further fine of five pounds for every day, or part of a day, on which he so uses them, or permits them to be so used, after conviction.

NOTES TO SECTION 14

History.—This section reproduces s. 21 (2) of the Act of 1930, which replaces s. 12 of the 1925 Act (penalty for re-letting house ordered to be closed), which in turn reproduced s. 32 of the Housing, Town Planning, etc., Act, 1919, as amended by s. 16 of the Housing, etc., Act, 1923 (13 Halsbury's Statutes 989).

General Note.—This section renders any person, who knowing that a closing order has become operative and applies to any premises, or that an undertaking has been given under this part of this Act that any premises shall not be used for certain purposes specified in the undertaking, uses those premises in contravention of the terms of the order or undertaking, liable to a fine not exceeding £20 for using the premises or permitting them to be used in contravention of the order, and to a further fine not exceeding £5 for every day or part of a day on which he so uses them or permits them to be so used after conviction. See note (f) to s. 155 as to licence for wartime user under the Defence Regulations.

(a) "**Closing orders.**"—See s. 12, p. 76, *ante*.

15. Appeals.—(1) Any person aggrieved (a) by—

- (a) a notice under this Part of this Act requiring the execution of works ;
- (b) a demand for the recovery of expenses incurred by a local authority in executing works specified in any such notice ;
- (c) an order made by a local authority with respect to any such expenses ;
- (d) a demolition order made under this Part of this Act ;
- (e) a closing order, or a refusal to determine a closing order ;
- (f) a withholding of approval in relation to the use for any purpose of premises in respect of which a closing order is in force ;

may, within twenty-one days after the date of the service of the notice, demand or order, or after the refusal, as the case may be, appeal (b) to the county court within the jurisdiction of which the premises to which the notice, demand, or order relates are situate, and no proceedings shall be taken by the local authority to enforce any notice, demand or order in relation to which an appeal is brought before the appeal has been finally determined :

Provided that—

- (i) on an appeal under paragraph (b) or paragraph (c) of this subsection no question shall be raised which might have been raised on an appeal against the original notice requiring the execution of the works ; and
 - (ii) no appeal shall lie under paragraph (d) or paragraph (e) of this subsection at the instance of a person who is in occupation of the premises to which the order relates under a lease or agreement of which the unexpired term does not exceed three years.
- (2) On an appeal to a county court under this section—
- (a) the judge may make such order either confirming or quashing or varying the notice, demand or order as he thinks fit, and he may, if he thinks fit, accept from an appellant any such undertaking as might have been accepted by the local authority (c), and any undertaking so accepted by the judge shall have the like effect as if it had been given to and accepted by the authority under this Part of this Act ; and
 - (b) where the judge allows an appeal against a notice

requiring the execution of works to a house, he shall, if requested by the authority so to do, include in his judgment a finding whether the house can or cannot be rendered fit for human habitation at a reasonable expense :

Provided that the judge shall not accept from an appellant upon whom such a notice as is mentioned in subsection (1) of section eleven of this Act was served an undertaking to carry out any works, unless the appellant complied with the requirements of subsection (2) (d) of that section.

(3) The rules made under section ninety-nine of the County Courts Act, 1934 (e), for regulating the procedure and practice under this section shall make provision with respect to an inspection by the judge of the premises to which the appeal relates in any case in which he considers that inspection is desirable.

(4) No appeal shall lie from a decision of the Court of Appeal on an appeal from a county court in proceedings under this section.

(5) Any notice, demand or order against which an appeal might be brought to a county court under this section shall, if no such appeal is brought, become operative on the expiration of the period of twenty-one days mentioned in subsection (1) of this section, and shall be final and conclusive as to any matters which could have been raised on such an appeal, and any such notice, demand or order against which an appeal is brought shall, if and so far as it is confirmed by the county court judge, or the Court of Appeal, become operative as from the date of the final determination of the appeal.

For the purposes of this Part of this Act, the withdrawal of an appeal shall be deemed to be a final determination thereof, having the like effect as a decision confirming the notice, demand or order, or decision appealed against and, subject as aforesaid, an appeal shall be deemed to be finally determined on the date on which the decision of the Court of Appeal is given, or in a case where no appeal is brought to the Court of Appeal, upon the expiration of the period within which such an appeal might have been brought.

NOTES TO SECTION 15

History.—This section reproduces s. 22 of the Act of 1930 as amended by s. 83 (2) and 84 (3) of the Act of 1935.

An appeal lies under this section against an order for the demolition of an obstructive building (see s. 55, p. 165, *post*).

(a) "**Aggrieved person.**"—For meaning of this term see *Re Sidebotham*,

Ex parte Sidebotham (1880), 14 Ch. D. 458; 4 Digest 225, 2114; *Sevenoaks Urban District Council v. Twynnam*, [1929] 2 K.B. 440; 93 J. P. 189; Digest Supp. It should be noted that no appeal lies under paragraph (d) (against a demolition order) or paragraph (e) (against a closing order or refusal to determine a closing order) at the instance of a person who is in occupation of the premises to which the order relates under a lease or agreement of which the unexpired term does not exceed three years. (Proviso (ii) to sub-s. (1), *ibid.*)

(b) **Grounds of appeal.**—The section is silent as to the grounds on which an aggrieved person may appeal to the county court. It would seem, however, that any of the following points (among others) could be raised by an appellant.

(i) *On an appeal against a notice requiring the execution of works—*

1. That the house to which the notice relates is not occupied by persons of the working classes or is not of a type suitable for occupation by persons of the working classes.
2. That the house is in no respect unfit for human habitation.
3. That the required works are excessive or unreasonable.
4. That the house is incapable of being rendered fit for human habitation at a reasonable expense.

(ii) *On appeal against a demand for the recovery of expenses incurred by a local authority in executing works—*

1. That the notice [or the notice as varied, as the case may be] requiring the execution of works was complied with.
2. That the works executed by the local authority were not the works specified on the notice [or the notice as varied by the court].
3. That the appellant from whom the local authority are seeking to recover the expenses is not the person in law liable to pay them.
4. That the appellant's liability is limited by s. 10 (3) to a smaller amount than that demanded.

(iii) *On appeal against an order made by a local authority in respect of expenses under s. 10 (5).*

See (ii), *supra*.

(iv) *On appeal against a demolition order—*

1. That the house to which the notice relates is not occupied by persons of the working classes and is not of a type suitable for occupation by persons of the working classes.
2. That the house is not unfit for human habitation.
3. That the house is capable of being rendered fit for human habitation.
4. That the local authority have acted unreasonably.
5. That the appellant offered an undertaking in accordance with the terms of s. 11 which the local authority ought to have accepted.
6. That the appellant has not committed a breach of his undertaking (s. 11 (3)).

(v) *On appeal against a closing order.*

See (iv), *supra*.

(vi) *On appeal against a refusal to determine a closing order—*

That the local authority have acted arbitrarily and [or] unreasonably.

(vii) *On appeal against the withholding of approval as to the user of closed premises.*

See (vi), *supra*.

Demolition Order Appeal.—Observations on the ground of appeal (iv) (3) "that the house is capable of being rendered fit for human habitation."

It was at one time considered that in order to succeed on appeal, an

appellant would have to prove that not only could the house be made fit for human habitation by the proposed works, but that it could be rendered so fit at a reasonable expense. In *Johnson v. Leicester Corporation*, [1934] 1 K. B. 638; 98 J. P. 165; Digest Supp., SLESSER, L. J., held that the kind of undertaking which a landlord might give under s. 11 (3) is without limitation. See also *Stidworthy v. Brixham U.D.C.* (1935), 2 L. J. C. C. R. 41; *Coleman v. Dorchester Rural District Council* (1935), 2 L. J. C. C. R. 113.

In considering what works are necessary to make the house fit for human habitation, attention is drawn to the definition of "sanitary defects" in s. 188 (1) and also to the directions contained in s. 188 (4) (see p. 314, *post*). In a case where there is bad arrangement or faulty design resulting in lack of air space or of ventilation and natural light, lack of a readily accessible water supply, sanitary accommodation or other conveniences, the court would be entitled, unless the schedule of repairs proposed to be executed will satisfactorily remedy these defects, to hold that the works proposed were insufficient to render the house fit for human habitation. See the case of *Durance v. Lincoln Corporation*, L. J. County Court Reporter, July 25, 1931.

On the other hand, it is to be noted that s. 188 (4) does not provide simply that "regard shall be had to the extent, if any, to which the house falls short by the provision of byelaws or by the general standard of housing accommodation, etc.," but "to the extent, if any, to which *by reason of disrepair and sanitary defects*, the house falls short of the byelaws, etc."

Therefore any alleged falling short of byelaw standard must be due either to disrepair or sanitary defects, regard being had, of course, to the definition of the last-mentioned expression in s. 188 (1).

The fact that it falls short of byelaw standard does not in itself, it would seem, render the house liable to demolition (*Brown v. Easington Rural District Council* (1935), 2 L. J. C. C. R. 130).

(c) "**Such undertaking as might have been accepted by the local authority.**"—It would seem that there is no limit on the undertaking which might be so accepted. See *Johnson v. Leicester Corporation*, *supra*, but see the statutory limitation imposed on the court in the proviso to this subsection.

(d) "**Section 11 (2).**"—As to this see note (n) to s. 11, p. 75, *ante*.

(e) "**Rules made under s. 99, County Courts Act, 1934.**"—No special County Court Rules have yet been made to govern this procedure, and therefore the general procedure on appeals, under County Court Rules, 1936, Order vi, rule 6 applies; but see Order xxiii, rule 14, as to inspection by the judge of the premises concerned.

16. Power of local authority to acquire and repair certain houses.—(1) Where a person has appealed against a notice under this Part of this Act requiring the execution of works to a house, and the judge or court in allowing the appeal has found that the house cannot be rendered fit for human habitation at a reasonable expense, the local authority may purchase that house by agreement, or may be authorised to purchase it compulsorily in accordance with the provisions of this section, and, if they purchase the house compulsorily, they shall forthwith execute all such works as were specified in the notice against which the appeal was brought.

(2) A local authority may for the purposes of this section be authorised to purchase a house by a compulsory

purchase order made and submitted to the Minister within six months after the determination of the appeal and confirmed by him in accordance with the provisions of the First Schedule to this Act (a) ; but if any person being an owner or mortgagee of the house undertakes to carry out to the satisfaction of the Minister, and within such period as the Minister may fix, the works specified in the notice against which the appeal was brought, the Minister shall not confirm the compulsory purchase order unless that person has failed to fulfil his undertaking.

(3) The provisions of the Second Schedule to this Act (b) shall have effect with respect to the validity and date of operation of a compulsory purchase order made under this section.

(4) The compensation to be paid for a house purchased compulsorily under this section shall be the value, at the time when the valuation is made, of the site as a cleared site available for development in accordance with the requirements of the building byelaws for the time being in force in the district and of any planning scheme (c) in operation in the area, and subject as aforesaid, shall be assessed in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919 (d).

NOTES TO SECTION 16

General Note.—This section reproduces s. 23 of the Act of 1930. The object of the section is to allow the local authority "to back to the last ditch" their original opinion that a house was capable, at reasonable expense, of being rendered fit for human habitation by empowering them to purchase that house either by agreement or compulsorily. If they acquire it compulsorily they must carry out the works originally specified in the notice against which the appeal was brought. In such a case its value only will be paid as compensation. If the local authority purchase by agreement they need not carry out the works.

The Minister, however, must not confirm the compulsory purchase order if the owner or mortgagee undertakes to carry out the works against which he has successfully appealed.

(a) "**First Schedule.**"—Only Part III of this Act is excepted from the unifying procedure relating to compulsory purchase orders contained in the Acquisition of Land (Authorisation Procedure) Act, 1946 ; see s. 1 (4) of that Act. For the provisions of the First Schedule of this Act there should be substituted reference to the First Schedule of that Act. See p. 671, *post*.

(b) "**Second Schedule.**"—The provisions relating to validity and date of operation of compulsory purchase orders are now to be found in Part IV of the First Schedule of the Acquisition of Land (Authorisation Procedure) Act, 1946 (see p. 677, *post*). The date of operation is now the date of publication of confirmation and not six weeks thereafter, as formerly.

(c) "**Planning scheme.**"—See definition in s. 188 (1) and notes thereto.

(d) "**Acquisition of Land (Assessment of Compensation) Act, 1919.**"—The text of this Act is set out on pp. 721 *et seq.*, *post*.

17. Power of local authority to cleanse from vermin building to which demolition order applies.—

(1) If it appears to the local authority that a house, to which a demolition order made under this Part of this Act applies, requires to be cleansed from vermin, the authority may, at any time between the date on which the order is made, and the date on which it becomes operative in relation to the house, serve notice in writing on the owner (a) or owners of the house that the authority intend to cleanse it before it is demolished.

(2) A local authority who have served a notice under the foregoing subsection may, at any time after the order has become operative in relation to the house and it has been vacated, enter and carry out such work as they may think requisite for the purpose of destroying or removing vermin, and the demolition of the building shall not be begun or continued by any owner after service of the notice on him until the authority have served on him a further notice authorising him to proceed with the demolition :

Provided that an owner upon whom a notice has been served under the foregoing subsection may, at any time after the house has been vacated, serve notice in writing on the authority requiring them to carry out the work within fourteen days from receipt of the notice served by him, and at the expiration of that period shall be at liberty to proceed with the demolition of the building whether the work has then been completed or not.

(3) Where a local authority serve a notice under subsection (1) of this section, subsection (1) of section thirteen (b) of this Act shall have effect in relation to the house to which the notice relates subject to the proviso that the local authority shall not be entitled to take action thereunder until the expiration of six weeks from the date on which the owner or owners become entitled by virtue of subsection (2) of this section to proceed with the demolition.

NOTES TO SECTION 17

General Note.—This section reproduces s. 82 of the Act of 1935.

The following points should be noted with respect to the operation of this section :

- (1) The notice must be in writing. It must be signed by the clerk or his lawful deputy (see s. 164 (2), p. 292, *post*), and as to the service of such notice, see s. 167, p. 293, *post*.
- (2) The notice may be served at any time between the date on which the order is made and the date on which it becomes operative. (As to the date on which a demolition order becomes operative, see s. 15, *ante*.)

- (3) The local authority may not enter the building for the purpose of cleansing it under this section until it has been vacated.
- (4) The owner upon whom the notice is served is not allowed to proceed with the demolition of the building until a further notice is served on him by the local authority authorising him to proceed, but such owner may at any time after the building has been vacated serve notice in writing on the authority requiring them to carry out the cleansing work within fourteen days from the receipt of the notice served by him, and at the end of that period he will be at liberty to proceed with the demolition of the building whether the cleansing has been carried out or not.

As to the application of this section to houses to which a clearance order applies, see s. 26 (7), p. 104, *post*.

(a) "**Owner.**"—See definition in s. 188 (1), p. 311, *post*.

(b) "**Section 13 (1).**"—See p. 78, *ante*.

General.

18. Power of local authority to make allowances to certain persons displaced.—A local authority may pay to any person displaced from a house (a), to which a demolition order made under this Part of this Act, or a closing order, applies, such reasonable allowance as they think fit towards his expenses in removing, and to any person carrying on any trade or business in any such house they may pay also such reasonable allowance as they think fit towards the loss which, in their opinion, he will sustain by reason of the disturbance of his trade or business consequent on his having to quit the house, and in estimating that loss they shall (b) have regard to the period for which the premises occupied by him might reasonably have been expected to be available for the purpose of his trade or business and the availability of other premises suitable for that purpose.

NOTES TO SECTION 18

General Note.—This section reproduces s. 41 of the Act of 1930 in so far as that section applies to houses which are the subject of a demolition order or a closing order.

The allowances which the local authority may make under this section are purely voluntary. In *Re Baker, Nichols v. Baker* (1890), 44 Ch. D. 262; 42 Digest 717, 1358, COTTON, L.J., said

"I think that great misconception is caused by saying that in some cases, 'may' means 'must.' It can never mean 'must' so long as the English language retains its meaning. . . . There is given by the word 'may' a power as to the exercise of which there is a discretion."

The allowances may be in respect of two things :

- (a) the expense of removing from premises to which a demolition order or a closing order applies;
- (b) the loss by reason of disturbance of trade.

In estimating (b), in those cases where they choose to make allowances, they *must* have regard to the period for which the premises occupied might reasonably have been expected to be available for the purpose of his the owner's trade or business and the availability of other premises suitable for that purpose.

The words "as they think fit" do not mean "as they choose." They mean "fitting" or "suitable." See *Roberts v. Hopwood*, [1925] A. C. 578; 89 J. P. 105; 33 Digest 20, 83.

For a similar provision with respect to houses in clearance and re-development areas, see s. 44, p. 145, *post*.

(a) "**House.**"—By s. 188 (1) this word is defined to include any yard, garden, outhouses and appurtenances belonging thereto or usually enjoyed therewith. See also note (g) to s. 25, p. 98, *post*.

(b) "**Shall.**"—As noted above, this, which was substituted for the word "may" by the Standing Committee which considered the Act of 1930, imposes an obligation when the local authority have decided to make such an allowance. But it clearly imposes no obligation to make any allowance and the amendment obviously, from the Government's point of view, had "no harm in it."

19. Provisions for protection of owners of houses.

—(1) If an owner (a) of any house, who is not the person in receipt of the rents and profits thereof, gives notice to the local authority of his interest in the house, the authority shall (b) give to him notice of any proceedings taken by them in pursuance of this Part of this Act in relation to the house.

(2) Nothing in this Part of this Act shall prejudice or interfere with the right or remedies of any owner for the breach, non-observance, or non-performance of any covenant or contract entered into by a tenant or lessee in reference to any house in respect of which an order is made, or a notice requiring the execution of works is served, by a local authority under this Part of this Act; and if any owner is obliged to take possession of a house in order to comply with any such order or notice, the taking possession shall not affect his right to avail himself of any such breach, non-observance, or non-performance which has occurred before he so took possession.

NOTES TO SECTION 19

History.—Sub-section (1) replaces sub-s. (1) of s. 29 of the Act of 1925 and sub-s. (2) reproduces s. 31 of that Act.

For power of local authority to require information as to ownership of premises, see s. 168, p. 294, *post*.

For power of the court to authorise owner to execute works on default of another owner, see s. 161, p. 289, *post*.

(a) "**Owner.**"—See definition in s. 188 (1), p. 311, *post*. As to the position of agents and trustees who receive the rack-rent, see ss. 9 and 10, pp. 62, 67, *ante*.

(b) "**Shall.**"—The section will impose on local authorities a duty to serve owners who take advantage of this section in addition to the duty imposed on them under s. 9 (1), p. 62, *ante*.

20. Power of local authority to grant charging order to owner on completion of works.—(1) Where any owner (*a*) has completed in respect of a house any works required to be executed by a notice of a local authority under this Part of this Act, he may apply to the local authority for a charging order.

(2) An applicant for a charging order (*b*) under this section shall produce to the local authority the certificate of their surveyor or engineer that the works have been executed to his satisfaction, and accounts of and vouchers for the expenses of the works; and the local authority, when satisfied that the owner has duly executed the required works, and of the amount of the expenses, and of the costs properly incurred in obtaining the charging order, shall make an order accordingly charging on the house an annuity (*c*) to repay the amount.

(3) The annuity charged shall be a sum of six pounds for every one hundred pounds of the said amount and so in proportion for any less sum, and shall commence from the date of the order, and be payable for a term of thirty years to the owner named in the order, his executors, administrators, or assigns.

(4) Copies of the charging order and of the certificate of the surveyor or engineer, and of the accounts as passed by the local authority, certified to be true copies by the clerk to the authority, shall within six months after the date of the order be deposited with the clerk of the peace of the county in which the house is situate, and be by him filed and recorded.

(5) Any person aggrieved (*d*) by a charging order made by a local authority under this section may appeal to Quarter Sessions against the order by a notice of appeal given within one month after notice of the charging order has been served upon him, and where a notice of appeal is so given, no proceedings shall be taken under the order until the appeal is determined or ceases to be prosecuted.

(6) Section thirty-one of the Summary Jurisdiction Act, 1879 (*e*) (which relates to appeals from courts of summary jurisdiction to courts of quarter sessions) shall apply in relation to an appeal under this section with the necessary modifications (*f*) as if the charging order were an order of a court of summary jurisdiction.

(7) A court of quarter sessions to which an appeal is brought under this section shall, at the request of either party to the appeal, state the facts in the form of a special case (*g*) for the opinion of the High Court.

NOTES TO SECTION 20

History.—Sub-ss. (1) to (4) in substance re-enact s. 16 of the Housing Act, 1925 (13 Halsbury's Statutes 1012), and sub-ss. (5) to (7) in substance re-enact s. 27 of that Act (13 Halsbury's Statutes 1019).

(a) "**Any owner.**"—See the definition in s. 188 (1), p. 311, *post*.

(b) "**Charging order.**"—As to charging orders, see s. 21, *post*. The charge must be registered under the Land Charges Act, 1925, s. 15 (15 Halsbury's Statutes 538). It will be a charge upon the house itself, not upon any particular interest therein, and will take precedence over all mortgages or charges other than those excepted by s. 21 (1), *post*. For a case under a local Act relating to an improvement charge as to which an apportionment was claimed as between freehold and leasehold interests, see *Holborn and Frascati, Ltd. v. London County Council* (1916), 80 J. P. 225; 31 Digest 309, 4533. For form of charging order see S. R. & O. 1939, No. 563, p. 555, *post*.

(c) "**Annuity.**"—As to recovery and redemption of the annuity, see s. 21 (3), (5), *post*.

(d) "**Person aggrieved.**"—As to the meaning of this term, see *Re Sidebotham, Ex parte Sidebotham* (1880), 14 Ch. D. 458; 4 Digest 225, 2114; *Sevenoaks Urban District Council v. Twynam*, [1929] 2 K. B. 440; 93 J. P. 189; Digest Supp.

(e) "**Summary Jurisdiction Act, 1879, s. 31**" (11 Halsbury's Statutes 338).—Note that the provisions of s. 1 of the Summary Jurisdiction (Appeals) Act, 1933 (26 Halsbury's Statutes 546), were substituted for this section.

(f) "**Necessary modifications.**"—Under the substituted s. 31 notice must be given within fourteen days, but under this section it must be given within one month after notice of the charging order has been served.

(g) "**Special case.**"—Ordinarily quarter sessions have full discretion as to stating a special case or not; in this instance they have no discretion. No appeal lies from the decision of the Divisional Court, unless leave to appeal is given by that court or by the Court of Appeal.

21. Provisions as to form, effect, &c., of charging orders.—(1) Every charge created by a charging order under this Part of this Act shall be in such form as the Minister may prescribe, and shall be a charge on the premises specified in the order having priority over all existing and future estates, interests and incumbrances, with the exception of—

- (a) tithe commutation rentcharge; and
- (b) until extinguished, quit rents and other charges having their origin in tenure; and
- (c) any charge on the premises created or arising under any provision of the Public Health Acts (a), or under any provision in any local Act authorising a charge for recovery of expenses incurred by a local authority; and
- (d) any charge created under any Act authorising advances of public money;

and where more charges than one are charged under this Part of this Act on any premises such charges shall, as

between themselves, take order according to their respective dates.

(2) A charging order shall be conclusive evidence that all notices, acts, and proceedings by this Part of this Act directed with reference to, or consequent on, the obtaining of such an order or the making of such a charge, have been duly served, done, and taken, and that the charge has been duly created, and is a valid charge on the premises declared to be subject thereto.

(3) Every annuity charged by any such charging order may be recovered (*b*) by the person for the time being entitled to it by the same means and in the like manner in all respects as if it were a rentcharge granted by deed out of the premises by the owner thereof.

(4) The benefit of any such charge may be from time to time transferred (*c*) in like manner as a mortgage or rentcharge may be transferred; and any such transfer may be in such form as the Minister may prescribe.

(5) Any owner of, or other person interested in, premises on which an annuity has been charged by any such charging order shall at any time be at liberty to redeem the annuity on payment to the person entitled to the annuity of such sum as may be agreed upon, or in default of agreement determined by the Minister.

(6) Nothing in this section with respect to the priority or validity of charges thereunder shall be construed as affecting the application to any such charge of the provisions of the Land Charges Act, 1925, as amended by any subsequent enactment, or of the Yorkshire Registries Act, 1884, as so amended, and for the purposes of the last mentioned Act, every charging order under this Part of this Act which relates to a house in Yorkshire shall be registered in the manner in which a charge made by deed by the absolute owner of the premises would at the date of the order be required to be registered.

NOTES TO SECTION 21

General Note.—This section reproduces s. 32 of the Housing Act, 1925, as amended by the Housing Act, 1935, s. 98, and Part II of the Sixth Schedule.

Charging orders may be made under s. 7 (4) (b) and (5) and s. 20, *ante*. For form of charging orders see notes to those sections.

The section makes the charging order an indefeasible security.

(a) **Charges under the Public Health Acts.**—See Public Health Act, 1875, s. 257 (13 Halsbury's Statutes 732), and Public Health Act, 1936, s. 291. See also the Private Street Works Act, 1892, s. 13 (9 Halsbury's Statutes 201).

(b) **Recovery of annuity.**—Under s. 27 of the Artizans and Labourers Dwellings Act, 1868, which was similar to the above sub-s. (3) of this section,

it was held that the Act does not place the liability of the rentcharge on any person, but that the premises were charged with it, and that the tenant in possession is liable during the continuance of his estate: *Hyde v. Berners* (1889), 53 J. P. 453.

The holder of the rentcharge will be entitled to distrain: see *Dodds v. Thompson* (1865), L. R. 1 C. P. 133; 18 Digest 262, 28. And an action will lie for arrears: *Thomas v. Sylvester* (1873), L. R. 8 Q. B. 368; 39 Digest 205, 948; *Scottish Widows' Fund v. Craig* (1882), 20 Ch. D. 208; 39 Digest 203, 927; *Booth v. Smith* (1883), 47 J. P. 759; 39 Digest 206, 960; *Christie v. Barker* (1884), 53 L. J. (Q. B.) 537; 39 Digest 170, 611; *Booth v. Smith* (1884), 14 Q. B. D. 318; 39 Digest 170, 614; *Searle v. Cooke* (1890), 43 Ch. D. 519; 39 Digest 205, 954; *Pertwee v. Townsend*, [1896] 2 Q. B. 129; 39 Digest 206, 961; *Re Herbage Rents, Greenwich, Charity Commissioners v. Green*, [1896] 2 Ch. 811; 39 Digest 207, 966.

The Law of Property Act, 1925, s. 121 (15 Halsbury's Statutes 300), provides that a rentcharge may be recovered by distress if unpaid for twenty-one days after the time appointed for payment; by entry and receipt of the rent and profits if unpaid for forty days; and in the like case by demise by deed to a trustee for a term of years on trust by mortgage, sale, or demise, for all or any part of the term of the land charged, or any part thereof, or by receipt of the income thereof, or by all or any of those means, or by any other reasonable means to raise and pay the annual sum, and any arrears thereof, and all costs and expenses.

Distress may be barred under the Real Property Limitation Act, 1833 (10 Halsbury's Statutes 441), if the rentcharge has not been paid for the statutory period: *Jones v. Withers* (1896), 74 L. T. 572; 32 Digest 418, 949. If the land falls into the possession of a company which is being wound up, see, as to the right of proof for arrears, *Re Blackburn and District Benefit Building Society, Ex parte Graham* (1889), 42 Ch. D. 343; 39 Digest 206, 964.

(c) **Transfer of benefit of charge.**—As to the transfer of mortgages, see ss. 114 and 118, Law of Property Act, 1925 (15 Halsbury's Statutes 295, 299). No form of transfer has been prescribed by the Minister. A form (Form B) was prescribed by the Fifth Schedule, Housing of the Working Classes Act, 1890.

22. Prohibition of back-to-back houses.—(1) Notwithstanding anything in any local Act or byelaw in force in any borough or district, it shall not be lawful to erect any back-to-back houses (a) intended to be used as dwellings for the working classes, and any such house shall for the purposes of this Act be deemed to be unfit for human habitation:

Provided that nothing in this section shall prevent the erection or use of a house containing several tenements in which the tenements are placed back to back, if the medical officer of health for the borough or district certifies that the several tenements are so constructed and arranged as to secure effective ventilation of all habitable rooms in every tenement.

(2) This section shall apply to any house commenced to be erected after the third day of December, nineteen hundred and nine, except that it shall not apply to houses abutting on any streets the plans whereof were approved

by the local authority before the first day of May, nineteen hundred and nine, in any borough or district in which, on the third day of December, nineteen hundred and nine, any local Act or byelaws were in force permitting the erection of back-to-back houses.

NOTES TO SECTION 22

This section reproduces s. 17 of the Housing Act, 1925 (13 Halsbury's Statutes 1012).

(a) "**Back-to-back houses.**"—There is no definition of "back-to-back" houses. A building was intended to contain four tenements on each of its three floors; there was to be a common staircase in the centre, but each tenement in front would be divided from the one behind it by an unbroken and continuous centre wall. It was held that such a building was within the section: *Murrayfield Real Estate Co. v. Edinburgh Magistrates*, [1912] S. C. 217; 38 Digest 216, *e*.

Ten dwelling-houses were respectively erected over ten private motor garages. Each dwelling-house was designed for occupation with the garage beneath it and was occupied by a chauffeur employed by the tenant of the garage and dwelling-house. Each dwelling-house could be approached only from the corresponding garage underneath, the approach being by a separate staircase. Five of the dwelling-houses, with their corresponding garages, faced in one direction and had to the extent of two-thirds common backs respectively with the remaining five dwelling-houses and garages which faced in the opposite direction, the remaining one-third of the space at the back of each pair of houses being occupied by a ventilating shaft. The local authority having made closing orders in respect of the dwelling-houses on the ground that they were "back-to-back houses intended to be used as dwellings for the working classes" within the meaning of s. 43 of the 1909 Act, the owner appealed to the Local Government Board (now Minister of Health): *Held*, on a case stated by the Board under s. 39 (1) (a) of the Housing, Town Planning, etc. Act, 1909, for the opinion of the High Court: (1) that the existence of the airshafts did not in point of law prevent the houses from being back-to-back houses within the meaning of the statute; (2) that it was for the Local Government Board to determine as a matter of fact whether the houses were back-to-back houses . . . (*White v. St. Marylebone B.C.*, [1915] 3 K. B. 249; 38 Digest 216, 507). It was further held that a chauffeur is a member of the working classes in the ordinary and popular sense, and that as a matter of law it was open to the Local Government Board to determine whether as a matter of fact the houses "were intended to be used as dwellings for the working classes."

23. Application of certain provisions of Part II to temporary shelters.—In sections nine to seventeen of this Act references to a house include a reference to a hut, tent, caravan (a) or other temporary or movable form of shelter (b) which is used for human habitation and has been in the same enclosure for a period of two years next before action is taken under those sections.

NOTES TO SECTION 23

By s. 80 of the Housing Act, 1935 (28 Halsbury's Statutes 250), provisions similar to those contained in this section were made applicable to Part II of the Housing Act, 1930. See also s. 26 (8), p. 105, *post*, for similar provisions applicable to houses in clearance areas.

(a) "**Caravan.**"—See *Rodwell v. Wade* (1924), 23 L. G. R. 174; 38 Digest 187, 260.

(b) "**Temporary or movable form of shelter.**"—E.g. a railway carriage converted into a dwelling-house (*Keeling v. Wirral R.D.C.* (1925), 23 L. G. R. 201; 38 Digest 188, 261. See also *Ruislip-Northwood U.D.C. v. Lee* (1931), 29 L. G. R. 335; Digest Supp.; *Mitcham U.D.C. v. Seale* (1933), 97 J. P. 295; Digest Supp.)

24. Local authority for Part II in London (other than the City).—As respects the administrative county of London other than the City of London the local authority for the purposes of this Part of this Act shall, subject to the provisions of section eight of this Act, be the council of the metropolitan borough.

NOTE TO SECTION 24

For local authorities generally, see s. 1, p. 47, *ante*, and notes thereto For s. 8, see p. 61, *ante*.

PART III.—CLEARANCE AND RE-DEVELOPMENT.

Clearance Areas.

25. Power to declare an area to be a clearance area.—(1) Where a local authority (a), upon consideration (b) of an official representation (c) or other information in their possession (d), are satisfied (e) as respects any area (f) in their district—

- (a) that the houses (g) in that area are by reason of disrepair or sanitary defects unfit for human habitation (h), or are by reason of their bad arrangement (i), or the narrowness or bad arrangement of the streets (j), dangerous or injurious to the health of the inhabitants of the area (k), and that the other buildings (l), if any, in the area are for a like reason dangerous or injurious to the health of the said inhabitants; and
- (b) that the most satisfactory method (m) of dealing with the conditions in the area is the demolition of all the buildings in the area;

the authority shall cause that area to be defined on a map (n) in such manner as to exclude from the area any building which is not unfit for human habitation or dangerous or injurious to health and shall pass a resolution (o) declaring the area so defined to be a clearance area, that is to say,

an area to be cleared of all buildings in accordance with the subsequent provisions of this Part of this Act :

Provided that, before passing any such resolution, the authority shall satisfy themselves—

(i) that, in so far as suitable accommodation (*p*) available for the persons of the working classes (*q*) who will be displaced by the clearance of the area does not already exist, the authority can provide, or secure the provision of, such accommodation in advance of the displacements which will from time to time become necessary as the demolition of buildings in the area, or in different parts thereof, proceeds (*r*) ; and

(ii) that the resources of the authority are sufficient (*s*) for the purpose of carrying the resolution into effect.

(2) A local authority shall forthwith transmit to the Minister (*t*) a copy of any resolution passed by them under this section, together with a statement of the number of persons of the working classes who on a day specified in the statement were occupying the buildings comprised in the clearance area.

(3) So soon as may be after a local authority have declared any area to be a clearance area, they shall, in accordance with the appropriate provisions hereafter in this Act contained, proceed to secure the clearance of the area in one or other of the following ways, or partly in one of those ways and partly in the other of them, that is to say—

(a) by ordering the demolition of the buildings in the area (*u*) ; or

(b) by purchasing the land (*v*) comprised in the area and themselves undertaking, or otherwise securing, the demolition of the buildings thereon.

NOTES TO SECTION 25

Clearance areas.—This section reproduces s. 1 of the Act of 1930. An area which is defined by resolution to be a clearance area may be cleared by requiring the owners to demolish the buildings or by the local authority purchasing the area and then arranging for the demolition.

The first method of requiring the owners to demolish was introduced by s. 1 of the Act of 1930, and was designed to enable the local authority to secure the removal of a bad slum without being obliged to incur the heavy capital expense of purchase and clearance. It is a method which may often be convenient if the site is not required for re-housing. If the authority proceed by this method they will make a clearance order which must be confirmed by the Minister. The cleared site will remain with the owners. It may, however, not be used for building purposes or otherwise developed except subject to such restrictions and conditions, if any, as the local authority may impose. Under s. 32 of the Act the right is reserved to the local authority

to purchase any land to which a clearance order relates, if after 18 months from the date on which the order becomes operative the owners have not proceeded with development in accordance with plans approved by the authority.

The second method of dealing with a clearance area (ss. 29 and 30) was not introduced by the Act of 1930, but the procedure was made simpler and quicker. The Act does away with the necessity for a formal scheme. It enables the local authority to buy the area, either by agreement or by compulsion. Where they are unable to buy by agreement, they may make a compulsory purchase order, which must be submitted to the Minister for confirmation. When the local authority have bought the land they must proceed to demolish or arrange for the demolition of the buildings. They are empowered to dispose of the site as cleared, or subject to a requirement that it shall be cleared forthwith, or they may, subject to the approval of the Minister, appropriate the cleared area for some purpose for which they have statutory powers. *In a few cases it may be necessary to re-house on the land or part of it.*

A clearance area is one in which *all* the buildings require to be demolished, either (a) because they are unfit for human habitation on account of disrepair or sanitary defects, or (b) because they are dangerous or injurious to the health of the inhabitants of the area by reason of their bad arrangement or the narrowness or bad arrangement of the streets.

Properties which do not fall under either of these categories cannot be included in an area, but a clearance area may surround properties which in effect form "islands" within the area. A clearance area is not necessarily a solid block of territory bounded by continuous lines; it will frequently be an area of irregular shape surrounding, but not in law containing, such islands.

These "islands" may either be left undisturbed or be bought by the local authority if their acquisition is reasonably necessary to secure a cleared area of convenient shape and size. Similarly land adjoining a clearance area may be bought by the local authority if it is reasonably necessary for the development or uses of the cleared area. Property included in a clearance area will be purchased at site value except property which is included only by reason of its bad arrangement in relation to other buildings or the narrowness or bad arrangement of the streets. Such property, as well as property surrounded by or adjoining a clearance area, will be purchased on the basis of market value as modified by the rules set out in the Fourth Schedule to the Act (see s. 40, p. 135, *post*).

In the case of a clearance area the houses on which the owners are required to demolish, the order must exclude houses which are properly included in the area only by reason of their bad arrangement in relation to other buildings or the narrowness or bad arrangement of the streets. Such buildings will not therefore have to be demolished by the owners. See Third Schedule. Certain payments may also be made in respect of houses which are deemed to be well-maintained in accordance with the provisions of s. 42, *post*.

See also para. 9 of Part II of the 5th Schedule to the Town and Country Planning Act, 1944 (37 Halsbury's Statutes 489). Houses comprised in orders made under ss. 1, 3, 4 or 9 of that Act, which are in the opinion of the local authority for the purposes of this Act unfit for human habitation and incapable of being rendered fit at reasonable expense, may be acquired as if comprised in a clearance area under this part of this Act. The procedure is by way of an order within an order. Under para 9 a hearing may be substituted for a public local inquiry but otherwise the procedure will be similar.

Points on which local authority must be satisfied before declaring an area to be a Clearance Area.

- (i) that the dwelling-houses in the area are either
 - (a) unfit for human habitation by reason of disrepair or sanitary defects,

- or (b) dangerous or injurious to the health of the inhabitants of the area by reason of their bad arrangement or the narrowness or bad arrangement of the streets ;
- (ii) that the "other buildings" (if any) in the area are dangerous or injurious to the health of the inhabitants in the area by reason of their bad arrangement or the narrowness or bad arrangement of the street ;
 - (iii) that the most satisfactory method of dealing with the conditions in the area is demolition of all the buildings in the area ;
 - (iv) that in so far as suitable accommodation for the persons of the working classes who will be displaced by the clearance of the area does not already exist, the local authority can provide or secure the provision of such accommodation in advance of the displacements ;
 - (v) that their resources are sufficient for the purpose of carrying the resolution into effect.

Steps to be taken.

- (1) Define area on the map.
- (2) Pass resolution declaring the area to be a clearance area.
- (3) Forward to the Minister copy of this resolution and statement of the number of persons of the working classes occupying the buildings in the area *and*
- (4) An undertaking to carry out or secure the carrying out of such re-housing as the Minister considers necessary within a period specified by him.
- (5) As soon as it is clear that re-housing accommodation will be available as required, then make a clearance order or acquire land in the area by agreement or make compulsory purchase order, as may be requisite.
- (6) On clearance order becoming operative secure the vacation of buildings through owners or under s. 155 in accordance with dates specified in the order. Owner is to demolish buildings within 6 weeks of vacation (or within such longer period as the local authority deem reasonable).
- (7) On acquisition of land by agreement, or on possession being obtained under compulsory purchase order,
 - (i) Secure vacation of buildings, and
 - (ii) (a) demolish buildings within 6 weeks of vacation (or within such longer period as local authority deem reasonable) and
(b) appropriate (carrying out requirements of compulsory purchase order as to appropriation for re-housing, if any), or sell or lease the land as the case may be, or
 - (iii) sell or lease the land (except land required by a compulsory purchase order to be appropriated for re-housing) on condition of immediate demolition.

Buildings which cannot be included in a clearance area.

The following buildings cannot be included in a clearance area :

- (a) Buildings in respect of which a re-development plan has been proposed by the owners and agreed to be satisfactory by the local authority in whose area they are situated and which is being carried out in accordance with the time limit specified by the local authority (s. 50).
- (b) Houses in respect of which a certificate of fitness has been issued by the local authority so long as the certificate remains in force (s. 51).

Obligation of the local authority and the Minister to state reasons for directing that a building is unfit.

- (1) By s. 41 (1) the Minister must not cause a local inquiry to be held earlier than the expiration of fourteen days after it has been shown to his satisfaction that the local authority have served upon an objector, whose property is included in a clearance area or compulsory

purchase order, a notice in writing stating what facts they allege as their principal grounds for being satisfied that the building is so unfit.

- (2) A person whose property is included in an order as confirmed as being unfit for human habitation is entitled on making a request in writing to be furnished by the Minister with a statement of his reasons for deciding that the building was so unfit, provided that such person objected to his property being included in the order and appeared at the local inquiry in support of his objection (s. 41 (2)).

(a) "**Local authority.**"—In this Act the expression "local authority" means the council of the borough, urban district or rural district (s. 1, *ante*). For the application of this Part of the Act relating to clearance areas to London, see s. 33, *post*.

(b) "**Upon consideration.**"—When a duty is placed on a local authority to consider some particular matter, the Court will, in the absence of evidence to the contrary, assume that the duty has been performed and it will suffice if the authority have considered a report by one or more of their officials dealing with the matter: *Cohen v. West Ham Corporation*, [1933] Ch. 814; 97 J. P. 155; Digest Supp.

(c) "**Official representation.**"—The Medical Officer of Health must make an official representation whenever he is of opinion (a) that any dwelling-house in his district is unfit for human habitation, or (b) that any area in his district is an area which should be dealt with as a clearance area (s. 154 (2), p. 283, *post*). He may be moved to inspect a house or area with a view to ascertaining whether or not it ought to be made the subject of an official representation, by a complaint made to him in writing by any justice of the peace acting for his district or by four or more local government electors of the district, or, in the case of a rural district, by the parish council.

A local authority must consider "as soon as may be" any official representation made to them by the medical officer (s. 154 (3)). Every official representation must be in writing (s. 154 (1)). The term "writing" includes a printed or lithographed document: Interpretation Act, 1889, s. 20 (18 Halsbury's Statutes 1001). See also note (c) to s. 9, p. 64, *ante*, and note (b) to s. 11, p. 73, *ante*.

(d) "**Other information in their possession.**"—Under the Housing Act, 1925 (13 Halsbury's Statutes 1001), a local authority could only act in the matter of clearing an unhealthy area upon an official representation. The effect of the words "other information in their possession" makes the local authority no longer dependent on their medical officer. They may, for instance, act on the report of their surveyor or sanitary inspector. The Housing Committee may inspect the area themselves and act on the information so obtained, but it is inconceivable that a local authority would proceed to deal with an area under this section entirely unsupported by any of their expert advisers.

(e) "**Are satisfied.**"—The section will not be complied with by the local authority merely reciting in their resolution that they are satisfied; they must, it is submitted, actually satisfy themselves on the matters mentioned in this section, and this will necessitate material being placed before them on which they can satisfy themselves. On the other hand there has been held to be no obligation under the Housing Act requiring the authority to hear the owner of the land proposed to be included in a clearance area before passing a resolution declaring an area to be a clearance area: *Fredman v. Minister of Health* (1935), 100 J. P. 104; Digest Supp.

(f) "**Any area.**"—See note *supra*, "Clearance areas." It would seem that as few as two houses may constitute an "area."

(g) "**Houses.**"—The fact that a dwelling-house is not occupied will not prevent its inclusion in a clearance area: cf. *Robertson v. King*, [1901] 2 K. B. 265; 65 J. P. 453; 38 Digest 212, 467; *Slight v. Portsmouth Corporation* (1906), 70 J. P. 359; 38 Digest 212, 468.

Buildings which were originally houses and had been compulsorily closed as unfit for human habitation had been used as warehouses : Held, that the buildings having been originally dwelling-houses did not cease to belong to the class of dwelling-houses simply because they had been compulsorily closed and used as warehouses during the meantime : *Morgan v. Kenyon* (1913), 78 J. P. 66 ; 38 Digest 182, 225.

One house may contain a number of dwelling-houses in the sense of flats or tenements separately occupied, nevertheless the whole may, it would seem, be regarded as a dwelling-house : *Kirkpatrick v. Maxwelltown Town Council*, [1912] S. C. 288 ; 38 Digest 212, c.

In *Re Ross and Leicester Corporation* (1932), 96 J. P. 459 ; Digest Supp., a common lodging-house was held to be a dwelling-house, and in *Premier Garage Co. v. Ilkeston Corporation* (1933), 97 J. P. 786, it was decided that premises consisting of a dwelling-house and shop as one indivisible property constituted a dwelling-house within the meaning of this section.

In *Re Liverpool (Portland Street No. 2) Housing Confirmation Order*, (1935) (unreported), a building was used for business purposes. The surveyor in evidence alleged that it was constructed as a dwelling-house. There was no evidence that it had been used as a dwelling-house at any time and it was not so used when the order was made. SWIFT, J., held that there was some evidence on which the Minister could find that the building was in fact a dwelling-house. In *Re, Bainbridge, South Shields (D'Arcy Street) Compulsory Purchase Order, 1937*, [1939] 1 K. B. 500 ; [1939] 1 All E. R. 419 ; 103 J. P. 107 ; Digest Supp., the properties consisted of shops on the ground floor and living rooms on the upper floors. The rooms had ceased to be used as living rooms and the owner was prepared to enter into an undertaking that they would not be so used again. Held, that the premises were houses within the meaning of the word as used in this section.

For a suggested test as to whether or not a particular building is a dwelling-house within the meaning of this Act, see note (r) to s. 188, p. 311, *post*.

(h) “Disrepair”—“Sanitary defects”—“Unfit for human habitation.”—In *Hall v. Manchester Corporation* (1915), 79 J. P. 385 ; 38 Digest 212, 470, a case under a local Act, it was held that whether a dwelling-house is unfit for human habitation or not is a question of fact to be determined by the local authority in a judicial spirit. The standard to be applied is that of the ordinary reasonable man and it does not follow that the whole building is unfit for human habitation because certain rooms are unfit. In an Irish case, *McCoy v. Borough of Cork*, [1934] 1 I. R. 779 ; Digest Supp., it was held that it was not sufficient to show that there was evidence of disrepair and sanitary defects in order to bring a house within this section, it must be shown that the evidence of disrepair and sanitary defects must be such as to render the house unfit for human habitation. In this case the Court pointed to the provisions of the Third Schedule of the Housing (Miscellaneous Provisions) Act, 1932, which correspond with the Fourth Schedule to this Act and which provide that the arbitrator may, in assessing compensation for houses not included in a clearance area, deduct from the compensation the estimated cost of putting the premises into a sanitary condition and a reasonably good state of repair. In effect, he held that the Court must be satisfied that the provisions of the Act had been fully complied with in that there must be evidence not only of sanitary defects or disrepair but of actual unfitness for human habitation.

Cf. *Re Bowman, South Shields (Thames Street) Clearance Order, 1931*, [1932] 2 K. B. 621 ; 96 J. P. 207 ; Digest Supp., p. 105, *post*.

It appears, however, that the English courts decline to follow the Irish court (see the judgment of SWIFT, J., in *Re Falmouth (Well Lane, Sedgmond's Court and Smithick Hill) Clearance Order, 1936*, [1937] 3 All E. R. 308 ; Digest Supp., where the Court declined to review the evidence and held that it had no power to do so.

On the other hand, in *Estate and Trust Agencies (1927), Ltd. v. Singapore Improvement Trust*, [1937] 3 All E. R. 324 ; Digest Supp., the Privy Council

reviewed the evidence and held that the grounds advanced were insufficient to condemn the house which was the subject of appeal, and further approved the dictum of Lord PARKER in *Hall v. Manchester Corporation* that when a house is stated to be unfit for human habitation, it is the whole house that is being so described.

By s. 2 of this Act, which reproduces s. 1 of the Housing Act, 1925, a duty is cast upon the landlord of certain houses throughout the tenancy to execute such repairs as are reasonably necessary to keep the premises "in all respects reasonably fit for human habitation." In a case under this section (*Jones v. Geen*, [1925] 1 K. B. 659, at p. 668; 31 Digest 315, 4568) SALTER, J., remarked that the standard of repair required is naturally for those purposes a humble standard. It is only required that the place must be decently fit for human beings to live in.

In determining for the purposes of this Act, however, whether a house is fit for human habitation, regard is to be had to the extent, if any, to which by reason of *disrepair or sanitary defects* the house falls short of the provisions of any byelaws in operation in the district, or of the general standard of housing accommodation for the working classes in the district (s. 188 (4), *post*).

Note that the expression used in Part II of this Act, s. 9, is "*in any respect* unfit for human habitation." A leaky roof, so long as it remains defective, might render a house containing only one bedroom, unfit for human habitation. On a very strict interpretation of s. 25 such a house might, for this reason only, be included in a clearance area. It is the usual practice of local authorities, however, to include in clearance areas, on the ground of unfitness for human habitation, only such dwelling-houses as are, in their opinion, so far defective that they cannot be made fit at a reasonable expense, if at all.

The following are grounds on which it would appear that a local authority may decide that a dwelling-house is unfit for human habitation:

- (1) the dwelling-house is worn out (brickwork settled, bulged, perished—pointing defective—woodwork decayed—structural weakness evident);
- (2) it is in such a state of disrepair as to render it impossible for its occupants to live in safety or a reasonable state of comfort;
- (3) it is seriously damp, particularly owing to rising damp;
- (4) it is dark and ill-ventilated;
- (5) it lacks reasonable facilities for a sanitary existence on the part of its occupants (*e.g.* communal closets in common yard, communal water supply in yard, absence of ventilated food store, no facilities for washing or drying clothes).

In 1919 the Ministry of Health in the "Manual of Unfit Houses and Unhealthy Areas" (vol. 1, p. 10) recommended the following standard for a fit house. A fit house should be:

- (1) free from serious dampness;
- (2) satisfactorily lighted and ventilated;
- (3) properly drained and provided with adequate conveniences and with a sink and suitable arrangements for disposing of slop water; and
- (4) in good general repair;

and should have:

- (5) a satisfactory water supply;
- (6) adequate washing accommodation;
- (7) adequate facilities for preparing and cooking food; and
- (8) a well-ventilated food store.

Vermin.—It is extremely doubtful if the presence of vermin constitutes a sanitary defect within the meaning of the Act. But vermin may render a house unfit for human habitation (*cf.* note (i) to s. 9, p. 65, *ante*).

(i) "**Bad arrangement.**"—It is not the bad arrangement of the buildings from a town planning standpoint which is in question, but the effect of

the arrangement on the health of the inhabitants of the area. In dealing with the matter in his report, the Medical Officer of Health will doubtless emphasise such points as insufficient yard space at the rear of the dwelling-houses, overshadowing, insanitary yards, courts or alleys. It is not enough that there should be bad arrangement; the authority must be satisfied that the bad arrangement is dangerous or injurious to the health of the inhabitants of the area: see note (k), *infra*. It must be noted that by s. 40 (2), p. 135, *post*, compensation for land, including buildings thereon which are included in the clearance area only on the ground that by reason of their bad arrangement in relation to other buildings or the narrowness or bad arrangement of the streets, are dangerous or injurious to the health of the inhabitants of the area, must be paid, when a compulsory purchase order is made, on the basis of market value, subject to the provisions of the Fourth Schedule. Para. 9 (b) of the First Schedule provides that land included in a compulsory purchase order on this ground must be distinguished in the order in the prescribed manner.

(j) "**Streets.**"—The term "street" includes any court, alley, passage, square or row of houses, whether a thoroughfare or not: see s. 188 (1), p. 311, *post*).

(k) "**Dangerous or injurious to the health of the inhabitants of the area.**"—The Medical Officer of Health before representing an area on this ground should consider whether the arrangement is so bad as to cause danger or injury to health. As an expert he is competent to express an opinion on this matter, but he must be prepared in the event of a local inquiry being held to give reasons for his opinion. He may cite books of admitted authority and he may also give evidence regarding the actual health of the inhabitants. Except in the case of abnormal infantile mortality from diarrhoea, it is doubtful if any reliance can be placed on vital statistics. Excessive mortality from pneumonia is common in clearance areas, but this may be due very largely to overcrowding and poverty, rather than the state of the houses.

It is thought, however, that in view of the definition of "sanitary defects" contained in s. 188 (1), *post*, it is seldom necessary to allege "bad arrangement" in the case of houses.

It will, of course, be open to objectors to call rebutting evidence at the local inquiry, and this may take the form of an expert opinion to the contrary. Facts relating to the actual health of the inhabitants of the area may be produced.

(l) "**Other buildings.**"—It should be noticed that "other buildings" can only be included in a clearance area on the ground that they are dangerous and injurious to the health of the inhabitants of the area by reason of their bad arrangement or the narrowness or bad arrangement of the streets. It would seem that the evidence in the case of "other buildings" should be directed at the local inquiry to establishing bad arrangement of a character dangerous or injurious to the health of the inhabitants of the area. Evidence relating to sanitary defects and structural disrepair appears irrelevant.

As to compensation for "other buildings" included in a compulsory purchase order, see note (i), *supra*. Note that by s. 26 (8) references to a building in this part of the Act relating to clearance areas include references to a hut, tent, caravan or other temporary or movable form of shelter which is used for human habitation and has been in the same enclosure for a period of two years next before action is taken under these provisions.

(m) "**The most satisfactory method.**"—It is difficult to see how a local authority can be satisfied that the most satisfactory method of dealing with an area is the demolition of *all* the buildings in the area unless they have also considered other methods of treatment. In an Irish case, *Meanev v. Cashel U.D.C.*, [1937] I. R. 54, it was held that notwithstanding the recital contained in the clearance order, there must be evidence that the council did satisfy themselves that the conditions in the area could be effectively

remedied only by the demolition of all the buildings in the area. Attention is drawn to Part II, *ante*, which enables houses to be dealt with individually by the service and enforcement of notices to repair and demolition orders. Formerly the authority had at their disposal another method of procedure, viz. improvement area procedure, but this was repealed by the Housing Act, 1935, and ss. 38 and 39, *post*, only apply to areas in respect of which a resolution to declare an area to be an improvement area was in force before the repeal of s. 7 of the Act of 1930 became operative.

It is submitted that the expression "the most satisfactory method" is not exclusively limited to what is most beneficial to health; the cost, the possibility of re-housing, and the time factor, are other matters covered by this term.

(n) "**Defined on a map.**"—The map should be on the scale 1/500 or approximate scale and show the clearance area coloured pink.

In defining the clearance area it should be borne in mind that there is a presumption that the soil of a highway up to the centre of the road is owned by the owners of the land on each side of the road: see Halsbury's Laws of England, vol. 16; Pratt and Mackenzie on Highways. Attention is also drawn to s. 46, *post* (Extinguishment of ways and easements), and to s. 28, *post* (Inclusion of local authorities' own property in clearance area).

(o) **Form of Resolution (to be adapted according to the circumstances).**—Resolved that the area defined on the map bearing the seal of the Council and dated the day of 19 (being an area within the district of the Council in respect of which the Council are satisfied

- (i) that the houses in the said area are by reason of disrepair and sanitary defects unfit for human habitation and are by reason of their bad arrangement and the bad arrangement of the streets dangerous and injurious to health and that the other buildings in the area are also by reason of their bad arrangement and the bad arrangement of the streets, dangerous and injurious to health;
- (ii) that the most satisfactory method of dealing with the conditions in the said area is the demolition of all the buildings in the said area;
- (iii) that in so far as suitable accommodation available for persons of the working classes who will be displaced by the clearance of the said area does not already exist, the Council can provide, or secure the provision of, such accommodation in advance of the displacements which will from time to time become necessary as the demolition of buildings in the area, or in different parts thereof, proceeds;
- (iv) that the resources of the Council are sufficient for the purposes of carrying this resolution into effect)

be and the same hereby is declared to be a clearance area within the meaning of the Housing Act, 1936.

Note the provisions contained in the Local Government Act, 1933, s. 76; 26 Halsbury's Statutes 346-348 (Disability of members of authorities for voting on account of interest).

(p) "**Suitable accommodation.**"—In *Re Gateshead County Borough (Barn Close) Clearance Order, 1931*, [1933] 1 K. B. 429; 97 J. P. 1; Digest Supp. it was admitted that the local authority had not considered the question of alternative accommodation for the business of the applicants, and it was contended that the order was, therefore, void on the ground that the proviso to s. 1 (1) required the authority to be satisfied as to the existence, or of their ability to secure the possession of, alternative business, as well as residential premises. SWIFT, J., held that the proviso dealt only with the provision of dwelling accommodation and dismissed the appeal. For an article on this case, see 96 J. P. N. 840.

(q) "**Persons of the working classes.**"—See note (f) to s. 6, *ante*.

(r) **Re-housing obligation.**—See note to s. 45, *post*.

(s) **Sufficiency of local authority's resources.**—Housing committees are advised to have before them an estimate of the cost of all proposed schemes before declaring area to be a clearance area. This is not a purely formal matter; the section clearly intends local authorities to consider the cost of their proposals before embarking on them.

(t) **"The Minister."**—*I.e.* the Minister of Health: see s. 188 (1), p. 311, *post.*

(u) **"By ordering the demolition of the buildings in the area."**—See next section.

(v) **"By purchasing the land."**—For provisions relating to the purchase of land, see s. 29, *post.* For provisions relating to compensation, see s. 40, *post.* "Land" includes any right over land: s. 188 (1), p. 311, *post.*

It is important to note that land may be purchased by agreement, so avoiding the necessity for a compulsory purchase order. Where land is purchased by agreement, the provisions of s. 40 have no application. Metropolitan borough councils, however, who require to borrow money for the purchase of the land should not conclude the contract until the purchase price has been submitted to the London County Council for their approval. The Minister can under s. 31 substitute a clearance order for a compulsory purchase order in certain circumstances. The application must be made both by the owner and the local authority, and the Minister before acting on their application must be satisfied that the owner or owners of the land agree to the demolition of the buildings on the site and that the authority can secure the proper clearance of the area without acquiring the land. The Minister may make such order either before or after a compulsory purchase order has been confirmed.

In *Re Greenwich (Prince of Orange Lane) Housing Order, 1936*, [1937] 3 All E. R. 305; Digest Supp., SWIFT, J., held that it was entirely in the discretion of the authority whether they should make a compulsory purchase order or a clearance order, and there was no onus on them to show reasons at the public inquiry why they preferred one method to the other. See also *Robins & Son, Ltd. v. Minister of Health, Re Brighton (Everton Place Area) Housing Order, 1937*, [1939] 1 K. B. 520; [1938] 4 All E. R. 446; 103 J. P. 13; Digest Supp.

26. Clearance orders.—(1) Where as respects any area declared by them to be a clearance area a local authority determine to order any buildings in the area to be demolished, they shall make and submit to the Minister, for confirmation by him, an order (in this Act referred to as a "clearance order") (a) ordering the demolition of each of those buildings.

(2) The provisions of the Third Schedule to this Act shall have effect with respect to the making, submission and confirmation of a clearance order, and the provisions of the Second Schedule to this Act shall have effect with respect to the validity and date of operation of such an order (b).

(3) When a clearance order has become operative, the owner or owners (c) of any building to which the order applies shall demolish that building before the expiration of six weeks from the date on which the building is required by the order to be vacated or, if it is not vacated until

after that date, before the expiration of six weeks from the date on which it is vacated or, in either case, before the expiration of such longer period as in the circumstances the local authority may deem reasonable; and, if the building is not demolished before the expiration of that period, the local authority shall enter and demolish (*d*) the building and sell the materials thereof (*e*).

(4) The provisions of subsections (2) to (5) of section thirteen of this Act (*f*) shall apply in relation to any expenses incurred by the authority under the last foregoing subsection and to any surplus remaining in the hands of the authority as they apply in relation to any expenses or surplus in a case where a house is demolished in pursuance of a demolition order made under Part II of this Act, with the substitution of references to the building demolished under this section for references to the house demolished under the said section thirteen.

(5) When a clearance order has become operative, no land to which the order applies shall be used for building purposes, or otherwise developed, except subject to such restrictions and conditions (*g*), if any, as the local authority may think fit to impose:

Provided that an owner who is aggrieved by a restriction or condition so imposed on the user of his land, or by a subsequent refusal of the authority to cancel or modify any such restriction or condition, may at any time appeal to the Minister, who shall make such order in the matter as he thinks proper, and the Minister's decision shall be final.

(6) A person who commences, or causes to be commenced, any work in contravention of a restriction or condition imposed under the last foregoing subsection shall, on summary conviction, be liable to a fine not exceeding forty shillings, and to a further fine not exceeding ten pounds in respect of each day during which the work exists in such a form and state as to contravene the restriction or condition.

(7) The provisions of section seventeen of this Act (*h*) relating to the cleansing of houses from vermin shall have effect in relation to a house to which a clearance order applies as they have effect in relation to a building to which a demolition order made under Part II of this Act applies, with the substitution, for the reference to the date on which the demolition order is made, of a reference to the date on which the clearance order is confirmed, and, for the reference to subsection (1) of section thirteen of this Act, of a reference to subsection (3) of this section.

(8) In the provisions of this Part of this Act relating to buildings included in an area to which a clearance order applies, references to a building shall include references to a hut, tent, caravan or other temporary or movable form of shelter which is used for human habitation and has been in the same enclosure for a period of two years next before action is taken under those provisions, and the reference to development in subsection (5) of this section includes a reference to the erection or placing on land of a hut, tent, caravan or other temporary or movable form of shelter.

NOTES TO SECTION 26

General Note.—This section substantially reproduces s. 2 of the Act of 1930 as modified by the Act of 1935. By sub-section (2) of this section it is provided that the provisions of the Second Schedule shall have effect with respect to the validity and date of operation of a clearance order. The Second Schedule reproduces sub-sections (2) to (6) of s. 11 of the 1930 Act (now repealed).

The Schedule gives to an aggrieved person a right of appeal to the High Court against a compulsory purchase order or a clearance order within six weeks of the publication of the Minister's approval of the order. The grounds on which such appeal may be made are :

- (1) That it is not within the powers of the Act.
- (2) That any requirement of the Act has not been complied with.

The Court, if satisfied upon the hearing of the application that the order or the approval of the plan is not within the powers of the Act, or that the interests of the applicant have been substantially prejudiced by any requirement of the Act not having been complied with, may quash the order or the approval of the plan either generally or in so far as it affects any property of the applicant.

Subject to this limited right of appeal, it is provided that the order or the approval of the plan shall not be questioned by prohibition or *certiorari* or in any legal proceedings whatsoever either before or after the order is confirmed, or the plan approved as the case may be, and becomes operative at the expiration of six weeks from the date on which notice of confirmation of the order or of the approval of the plan is published.

As a result of these provisions persons aggrieved by an order under these sections lose valuable common law rights. In the absence of statutory provisions to the contrary, the validity of an order such as a clearance order or compulsory purchase order could be questioned by applying to a Divisional Court for a writ of *certiorari* to quash (see *Minister of Health v. R., Ex parte Yaffe*, [1931] A. C. 494; 95 J. P. 125; Digest Supp.), or to the Chancery Division for an injunction to restrain the local authority from acting on the order even though confirmed by the Minister. The local authority could also be restrained or prohibited from making the order and the Minister from confirming it in a case of non-compliance with the requirements of the Act (see *R. v. Minister of Health, Ex parte Davis*, [1929] 1 K. B. 619; 93 J. P. 49; Digest Supp.). In an Irish case, however, *The State (Wood) v. West Cork, etc.*, [1936] I. R. 401, it was held that notwithstanding the provisions of s. 17 (4) of the Housing (Miscellaneous Provisions) Act, 1932 (which are almost identical in form with the provisions of the Second Schedule), a writ of *certiorari* would lie to quash an order made under the Act and that those provisions did not exclude procedure by way of prohibition or *certiorari*.

Summary of reported cases under these provisions:—

Re Bowman, South Shields (Thames Street) Clearance Order, 1931, [1932] 2 K. B. 621; 96 J. P. 207; Digest Supp. SWIFT, J.:

(1) When an owner of property comes into this Court and complains that there has been some irregularity in the proceedings and that he is not liable to have his property taken away, it is right that his application should be entertained sympathetically and that a statute depriving an individual of his rights to property should be construed quite strictly against the local authority and favourably towards the interests of the applicant, for he, for the benefit of the community, is undoubtedly suffering a substantial loss, and that loss must not be inflicted upon him, unless it be quite clear that Parliament has intended that it shall be.

(2) An appellant is not entitled to come to Court and complain that the local authority has made a mistake in fact in making the order. He is not entitled to say that his house is not insanitary or unfit for human habitation, and that, therefore, the order should not have been made. Those matters have been left by the legislature entirely to the local authority subject to the confirmation of the Minister of Health.

(3) A mistake in the number of days given by an order for the vacation of the premises, which mistake is corrected by the Minister in confirming the order, does not invalidate the order.

(4) The omission of a "starred" note to the form of the clearance order prescribed by the Provisional Regulations, 1930, did not invalidate the order; assuming that it was a requirement by the Act that the note should be included, the applicant was not substantially prejudiced by the omission.

Re Ross and Leicester Corporation (1932), 96 J. P. 459; Digest Supp. SWIFT, J.:

A common lodging-house is a "dwelling-house" within the Housing Act, 1930, s. 1 (1), so as to come within the scope of that section.

Re Gateshead County Borough (Barn Close) Clearance Order, 1931, [1933] 1 K. B. 429; 97 J. P. 1; Digest Supp. SWIFT, J.:

A local authority are not obliged, before making a clearance order, to satisfy themselves that suitable accommodation for business purposes as well as for residential purposes will be provided for any persons of the working classes displaced in consequence of the order.

Ellen Street Estates, Limited v. Minister of Health, [1934] 1 K. B. 590; 98 J. P. 157, C. A.; Digest Supp.:

(1) In 1922 an improvement scheme under the Housing Act, 1925, was made by a local authority and confirmed by the Minister, but before it was executed the local authority's powers of compulsory purchase had lapsed. *Held*, that the local authority were not thereby precluded from making a new scheme under the Housing Act, 1930, or the Minister from confirming it.

(2) S. 7 of the Acquisition of Land (Assessment of Compensation) Act, 1919, enacts that the provisions of the Act or order by which land is authorised to be acquired or of an Act incorporated therewith, "shall, in relation to the matters dealt with in this Act, have effect subject to this Act, and so far as inconsistent with this Act those provisions shall cease to have or shall not have effect." *Held*, (1) that Parliament cannot bind itself as to the form of subsequent legislation and cannot effectively enact that a provision in one statute shall not be altered by a subsequent Act save by express words; and (2) that s. 46 of the Housing Act, 1925, so far as its provisions are inconsistent with those of the Act of 1919, has repealed by implication the provisions of that Act.

Errington v. Minister of Health, [1935] 1 K. B. 249; 99 J. P. 15; Digest Supp.:

In considering the confirmation of a clearance order the Court of Appeal held that the Minister must be regarded as exercising quasi-judicial functions. When, therefore, objections had been made by an owner to an order, and an inquiry had been held, the Minister is not entitled to hear fresh evidence from one of the parties in the absence of the other or without giving the other party an opportunity of dealing with such evidence.

Re Mowsley (No. 1) Compulsory Purchase Order, 1944, (1946), 175 L. T. 101; sub nom. Stafford v. Minister of Health, 110 J. P. 210.

In considering the confirmation of a compulsory purchase order under Part V as amended by s. 2 of the Housing (Temporary Provisions) Act 1944 (p. 402, *post*), whereunder the Minister was entitled to dispense with the holding of an inquiry, the Minister sent the grounds of objection received from the objector to the acquiring authority and received the authority's remarks thereon without giving the objector an opportunity of reply. The order was quashed on the grounds that the appellant had had no opportunity of answering the authority's remarks.

It would appear, however, that an objector is not entitled to have the opportunity of answering the comments of other government departments. See *North Witchford Rural District Council Compulsory Purchase (No. 2) Order, 1946 (Application of Miller)*.

Frost v. Minister of Health, [1935] 1 K. B. 286; 99 J. P. 87; Digest Supp.:

(1) A local authority passed a resolution declaring a certain area defined on a map as a clearance area. Without passing a further resolution they altered the limits of the area by omitting certain houses belonging to them which were originally included in the clearance area. *Held*, that a further resolution defining the altered area was unnecessary, and that the Minister could properly confirm an order on this basis.

(2) Until an objection has been raised to an order the Minister is acting in a ministerial and not in a judicial capacity, and he is entitled to give such advice to a local authority as he thinks fit.

Offer v. Minister of Health, [1936] 1 K. B. 40; 99 J. P. 347; Digest Supp.:

The Minister is entitled to give advice to local authorities before a clearance order is made. If officials of the Ministry give such advice, it does not preclude the Minister from confirming a clearance order made by the authority with reference to the land in respect of which the advice was given.

Marriott v. Minister of Health, [1937] 1 K. B. 128; [1936] 2 All E. R. 865; 100 J. P. 432; Digest Supp.:

The local authority made a compulsory purchase order under s. 1 of the Act of 1930 with respect to certain land in their area. After the date of the making of the order, but prior to the date of the inquiry and confirmation of the order, the owner demolished the houses in the area. The Minister confirmed the order. *Held*, that a clearance could not be ordered after the land had in fact been cleared, and that the corporation could not say that they were entitled to buy land in order to demolish houses on it which had already been demolished.

Fredman v. Minister of Health (1935), 100 J. P. 104; Digest Supp.:

Held, that there is no obligation on or any power in a local authority to hear an owner whose property it was proposed to include in a clearance area before passing a resolution declaring the area a clearance area.

William Denby & Sons, Ltd. v. Minister of Health, [1936] 1 K. B. 337; 100 J. P. 107; Digest Supp.:

When a clearance order is made under the Housing Act, 1930, the Minister of Health causes a public local inquiry to be held by an inspector; a person whose land is affected by the clearance order is not entitled to see the report made to the Minister by the inspector.

Horn v. Minister of Health, [1937] 1 K. B. 164; [1936] 2 All E. R. 1299; 100 J. P. 463; Digest Supp.:

A local authority made a compulsory purchase order under Part III of the Housing Act, 1925 (13 Halsbury's Statutes 1034). The owner of the land affected objected and a public local inquiry was held. After the inquiry, and before the Minister of Health had confirmed the order, a deputation of officials of the local authority called on the Minister in order to discuss their general policy of housing under the Housing Act, 1935. The land in question and the order made in respect of it were not discussed at the meeting, but that land formed a necessary part of the general housing policy of the local

authority. The owner of the land was not present at the meeting. The Minister subsequently confirmed the order.

Held, that the interview between the Council and the Minister being only concerned with the state of overcrowding and provision of houses under the Housing Act, 1935, the Minister had not failed to act in a judicial manner so as to vitiate his confirmation of the order.

Re Falmouth (Well Lane, Sedgmond's Court and Smithick Hill) Clearance Order, 1936, [1937] 3 All E. R. 308; Digest Supp. :

Appellants appealed on the ground that there was no evidence on which the Minister could confirm the order. *Held*, that the only grounds on which an appeal could be entertained were that the order was not within the powers of the Act or that any requirements of the Act had not been complied with and that there was no power in the Court to review the evidence and the Court declined to do so. See also *Re London County Council (Riley Street, Chelsea No. 1) Order, 1938, [1945] 2 All E. R. 484; sub nom. Gilbert v. Minister of Health, 109 J. P. 279.*

Robins & Son, Ltd. v. Minister of Health, Re Brighton (Everton Place Area) Housing Order, 1937, [1939] 1 K. B. 520; [1938] 4 All E. R. 446; 103 J. P. 13; Digest Supp. :

It is a matter for the discretion of the local authority whether they proceed by clearance order or by compulsory purchase order.

(a) "**Clearance order.**"—See the provisions contained in the Third Schedule to this Act, p. 331, *post*. For the provisions relating to the publication and validity of clearance orders, see Second Schedule, *post*.

"The order is to

- (1) be in the prescribed form ;
- (2) describe the area to which it applies by reference to a map which should be on 1/500 or approximate scale and should show the area coloured pink. Such house, building or other property is to be numbered consecutively on the map, notwithstanding that several may belong to one owner, the outside boundaries of such being defined by hard lines so that it may be seen to what properties such number applies ;
- (3) fix a date or dates (articulated to the local authority's programme of construction) by which the several buildings are to be vacated ;
- (4) be advertised :—
 - (a) by publication of notice in the prescribed form in one or more newspapers circulating in the district and
 - (b) by service of notice in the prescribed form on owners, lessees, and occupiers (except tenants for a month or less) and, so far as it is reasonably practicable to ascertain them, on mortgagees ;
- (5) be submitted to the Minister with
 - (a) copy of the official representation or other information on which the resolution was passed ;
 - (b) certified copy of map above mentioned ;
 - (c) copies of newspapers containing advertisements, and of notices ;
 - (d) certificate of service of notices ;
 - (e) formal resolution of the Council applying for confirmation of the order.

The order may be modified by the Minister. Notice of its confirmation has to be given by the local authority by public advertisement and to individual objectors. Six weeks after confirmation the order becomes operative (except in cases in which the provisions of the Second Schedule apply) and copies have then to be served on persons named in (4) (b) above.

The use or development of land cleared under a clearance order is subject to such restrictions and conditions (if any) as the local authority may impose. If the building or other development does not take place within 18 months, the local authority may purchase compulsorily or by agreement (section 32)."

For forms of notices and advertisements of the making or confirming of a clearance order, see S.R. & O. 1937, No. 78, p. 499, *post passim*.

(b) **Date when clearance orders become operative.**—See General Note, *supra*, and the Second Schedule, p. 329, *post*.

(c) **“Owner or owners.”**—By s. 188 (1) this term is defined as follows: “The expression ‘owner,’ in relation to any building or land, means a person other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the building or land, whether in possession or in reversion, and includes also a person holding or entitled to the rents and profits of the building or land under a lease or agreement, the unexpired term whereof exceeds three years.”

(d) Where a local authority demolish in default of the owner they are under obligation to leave support for adjoining property (*Bond v. Nottingham Corporation*, [1940] Ch. 429; [1940] 2 All E. R. 12; 104 J. P. 219; 2nd Digest Supp.). See *Bond v. Norman*, *Bond v. Nottingham Corporation*, [1939] Ch. 847; [1939] 2 All E. R. 610; 103 J. P. 210; 2nd Digest Supp., where the owner demolishes voluntarily in obedience to an order. Additional Exchequer contributions are payable under s. 6 of the Housing (Financial & Misc. Provisions) Act, 1946 (see p. 435, *post*), where the cost of providing houses is increased through the acquisition of rights of support.

(e) **Vacation and recovery of possession of buildings subject to a clearance order.**—See ss. 155 and 156, pp. 283, 285, *post*.

(f) **Section 13 (2) to (5).**—See p. 78, *ante*, and notes thereto.

(g) **“Restrictions and conditions.”**—See note (e) to s. 32, p. 119, *post*. This sub-section naturally gives rise to the question, “what limitations, if any, are there on the local authority’s power to impose restrictions or conditions?”

The power is discretionary and there is little doubt that such power is sufficiently “judicial” for the purposes of “*certiorari*.” It is well-settled law that a discretionary power must be exercised *bonâ fide* and reasonably, and if it is not so exercised it may be challenged by *certiorari*.

The sub-section (sub-s. (5)) gives a right of appeal to the Minister on the merits, but does not expressly provide that *certiorari* shall not lie in a proper case: it is, therefore, submitted that *certiorari* will lie if the local authority in imposing restrictions or conditions act *mala fide*, or arbitrarily or unreasonably.

It is submitted that in considering the nature of the restrictions or conditions which may be imposed regard must be had to the scope of the Act, and it should be borne in mind that this is a Housing not Town Planning Act. The title of the Act states that it is an Act to make further and better provisions with respect to the clearance or improvement of unhealthy areas, the repair or demolition of insanitary houses and the housing of persons of the working classes. This suggests that restriction or conditions of the following kind would be proper:

- (1) a restriction against the erection of dwelling-houses in a case where the site was unsuitable;
- (2) a restriction on the number of dwelling-houses to be re-erected on the site with the object of avoiding congestion and bad arrangement.
- (3) a condition that any building erected on the site should not be so arranged as to block access of light and air to neighbouring dwelling-houses.

On the other hand, restrictions and conditions on development such as those contemplated by the Town and Country Planning Act, 1932, ought, it is submitted, to be imposed, if at all, under that Act, for many of these go far beyond the scope of the Housing Acts. Note also that by sub-s. (8), *supra*, the reference to development in this sub-section includes a reference to the erection or placing on land of a hut, tent, caravan or other temporary or movable form of shelter.

Owner’s duty to prevent vacant land from becoming a nuisance.—It is at common law the duty of an owner of vacant land to prevent it from

being a public nuisance, although such nuisance may be caused by the acts of others; and the Attorney-General, on behalf of the public, is entitled to an injunction to prevent an owner from committing a breach of that duty (*A.-G. v. Tod Heailey*, [1897] 1 Ch. 560; 36 Digest 177, 221). Cf. *Job Edwards, Ltd. v. Birmingham Navigations*, [1924] 1 K. B. 341; 36 Digest 214, 575. See also *Chibnall v. Paul & Son* (1881), 29 W. R. 536; 36 Digest 213, 563. As to fencing vacant land, see Public Health Acts Amendment Act, 1907, s. 31.

Grounds of appeal.—These will vary according to the particular circumstances of each case, but the following general grounds are suggested:

The restriction or condition

- (1) is unreasonable;
- (2) will render economic development impossible;
- (3) will cause the appellant to suffer considerable loss and will inflict hardships;
- (4) will not secure any material advantage to the public;
- (5) is beyond the scope of the Act.

(h) **Section 17.**—For the provisions of this section, see p. 86, *ante*.

27. Purchase by local authority of land surrounded by, or adjoining, a clearance area.—Where as respects any area declared by them to be a clearance area a local authority determine to purchase any land comprised in the area, they may purchase also any land which is surrounded by the clearance area and the acquisition of which is reasonably necessary (a) for the purpose of securing a cleared area of convenient shape and dimensions, and any adjoining land the acquisition of which is reasonably necessary for the satisfactory development or user of the cleared area.

NOTES TO SECTION 27

General Note.—This section permits local authorities who have determined to purchase the land comprised in a clearance area to purchase in addition:

- (1) *land which is surrounded by the clearance area* if its acquisition is reasonably necessary for the purpose of securing a cleared site of convenient shape and dimensions;
- (2) *land adjoining the clearance area* if its acquisition is reasonably necessary for the satisfactory development or user of the cleared area.

If the land cannot be purchased by agreement it will be necessary to include it in a compulsory purchase order. Before making a compulsory purchase order local authorities are advised to have the land valued and to consider the valuation so that they can satisfy the Minister that they are fully aware of the expense likely to be incurred by reason of their proposals. The Minister may make his own inquiries as to the value of the land through the district valuer. If the land for some reason is exceptionally valuable, strong reasons should be placed before the Minister for desiring to acquire it.

Compensation, for the purposes of this section, will be assessed, failing agreement, under the Acquisition of Land (Assessment of Compensation) Act, 1919, subject to the modifications in the Fourth Schedule to this Act, p. 334, *post*. Until the 17th November, 1949, compensation will also be subject to the provisions of Part II of the Town and Country Planning Act, 1944, p. 737, *post*, limiting values with reference to prices current at the 31st March, 1939.

The provisions relating to the purchase of land and compensation are contained in ss. 29 and 40 respectively.

(a) "**Reasonably necessary.**"—S. 29 (3) and the Second Schedule provide for an appeal to the High Court against any such order. In *Burgesses of Sheffield v. Minister of Health* (1935), 100 J. P. 99; Digest Supp., SWIFT, J., said: "It is for the Court, if the matter is brought before it, to say whether there is any material on which the Minister could come to the conclusion that it was reasonably necessary." In that case the Court held that while it was not necessary for one clearance area in view of the fact that three other clearance areas were made of adjacent buildings, it was reasonably necessary for the satisfactory development of the four areas together, and the Minister's decision was accordingly upheld.

28. Provisions with respect to property belonging to a local authority within, surrounded by or adjoining, a clearance area.—Subject to the provisions of this section, a local authority (a) may include in a clearance area any land belonging to them which they might have included in such an area if it had not belonged to them, and where any land of the authority is included in a clearance area or, being land surrounded by or adjoining a clearance area, might have been purchased by the authority under the last foregoing section had it not previously been acquired by them, the provisions of this Act shall apply in relation to that land as if it had been purchased by the authority as being land comprised in the clearance area or, as the case may be, as being land surrounded by or adjoining the clearance area:

Provided that the foregoing provisions of this section shall not apply in the case of any land belonging to the local authority being working-men's dwellings which were acquired by them under any such Act or Order as is mentioned in section one hundred and thirty-seven (b) of this Act and in such circumstances that, in the case of land acquired before the commencement of this Act, the provisions of paragraph (1) of the Fifth Schedule to the Housing Act, 1925 (c), or, in the case of land acquired after the commencement of this Act, the provisions of paragraph (1) of the Eleventh Schedule (d) to this Act, took effect in relation thereto.

NOTES TO SECTION 28

General Note.—The effect of this section is as follows:

- (1) The local authority may include in a clearance area any land belonging to them if the buildings situated on the land are unfit for human habitation or dangerous or injurious to health within the meaning of s. 25.
- (2) If the buildings are not unfit for human habitation or dangerous or injurious to health within the meaning of s. 25, then, instead of including the land in a clearance area, provided it is surrounded by or adjoining the area as defined on the map, the provisions of the Act

are to apply to the land as if it were land purchased by the authority under the preceding section (s. 27).

These provisions are, however, not to apply to—

Working-men's dwellings which were acquired by them under any such Act or Order as is mentioned in s. 137 of the Act and in such circumstances that—

- (a) in the case of land acquired before the commencement of this Act, the provisions of paragraph (1) of the Fifth Schedule to the Housing Act, 1925; or
- (b) in the case of land acquired after the commencement of this Act, the provisions of paragraph (1) of the Eleventh Schedule to this Act took effect in relation thereto.

As a result, s. 156, p. 285, *post* (recovery of possession of controlled houses), will become applicable to the land, also the provisions of s. 30, including the power to sell or lease the land, or with the consent of the Minister to appropriate it for any purpose for which they are authorised to acquire land. The Government contribution towards re-housing persons displaced from a clearance area will also apply to houses belonging to an authority included in such a area. The provisions of this section were discussed in *Frost v. Minister of Health*, [1935] 1 K. B. 286; 99 J. P. 87; Digest Supp.

(a) "**Local authority.**"—See ss. 1 and 33.

(b) **Section 137.**—See p. 270, *post*.

(c) "**Fifth Schedule to Housing Act, 1925.**"—See 13 Halsbury's Statutes 1001 for text of that Act.

(d) "**Eleventh Schedule.**"—See p. 348, *post*. This schedule substantially re-enacts the provisions of the Fifth Schedule to the Act of 1925.

29. Purchase of land in a clearance area.—(1) Where a local authority (a) have determined to purchase under this Part of this Act land comprised in (b), or surrounded by or adjoining, a clearance area, they may purchase that land by agreement, or they may be authorised to purchase that land compulsorily by a compulsory purchase order made and submitted to the Minister and confirmed by him in accordance with the provisions of the First Schedule to this Act.

(2) An order authorising the compulsory purchase of land comprised in a clearance area shall be submitted to the Minister within six months, and an order authorising the compulsory purchase of land surrounded by or adjoining a clearance area shall be submitted to the Minister within twelve months, after the date of the resolution declaring the area to be a clearance area, or within such longer period as the Minister may, in the circumstances of the particular case, allow.

(3) The provisions of the Second Schedule to this Act shall have effect with respect to the validity (c) and date of operation (d) of a compulsory purchase order made under this section.

NOTES TO SECTION 29

General Note.—Where the local authority have determined to purchase land under this Part of this Act, this section permits them to buy the land

either by agreement or compulsorily by means of a compulsory purchase order, the making, submission to the Minister and confirmation of which must be in accordance with the Second Schedule to the Act, p. 329, *post*. Land may be purchased under this Part of the Act relating to clearance areas under three distinct provisions :

- (1) Under s. 25 (3) (b), where the land is *in* a clearance area. In this case the order authorising the compulsory purchase must be submitted to the Minister of Health within six months after the date of the resolution declaring the area to be a clearance area ;
- (2) Under s. 27, where the land is surrounded by or adjoining the clearance area. In this case the order authorising compulsory purchase must be submitted to the Minister within twelve months of the resolution ;
- (3) Under s. 32, where the land has been cleared of buildings and has not been and is not being used for building purposes or otherwise developed by the owner thereof. In this case the order must be submitted within three months of the resolution to purchase. There is no provision in this case for an extension of time.

“**Compulsory purchase order.**”—The order is to

- (1) be in the prescribed form ;
- (2) describe the land to which it applies by reference to a map, which should be on 1/500 or approximate scale ;
- (3) be advertised by publication of notice in the prescribed form on owners, lessees and occupiers, except tenants for a month or less, and, except in the case of land to be purchased under Part V of this Act, on mortgagees so far as it is reasonably practicable to ascertain them ;
- (4) be submitted to the Minister with—
 - (a) copies of newspapers containing advertisements and of notices ;
 - (b) certificate of service of notices ;
 - (c) certified copy of map above mentioned ;
 - (d) formal resolution of Council applying for confirmation of the order.

If the order is made in connection with a clearance area, it should further be accompanied by a copy of the official representation or other information on which the local authority is acting and should show in the prescribed manner

- (a) what parts to which it applies are
 - (i) part of the clearance area ;
 - (ii) land surrounded by the clearance area ;
 - (iii) land adjoining the clearance area ;
- (b) what buildings, if any, are included in the clearance area only on the ground that by reason of their bad arrangement in relation to other buildings or the narrowness or bad arrangement of the streets, they are dangerous or injurious to the health of the inhabitants of the area.

For prescribed notices and advertisements, see S.R. & O. 1937, No. 78, p. 499, *post passim*.

The order becomes operative in the same way as a clearance order. See further, Second Schedule, p. 329, *post*, and notes thereto.

Objections to order.—See notes to Third Schedule, p. 322, *post*.

(a) “**Local authority.**”—See ss. 1 and 33.

(b) “**Land comprised in a clearance area.**”—Note that in *Marriott v. Minister of Health*, [1936] 2 All E. R. 865 ; 100 J. P. 432 ; Digest Supp., it was held that the object of compulsory acquisition was the clearance of the site and that if the site had already been cleared before the order was confirmed, the Minister had no jurisdiction to confirm the order.

(c) **Validity of the order.**—See Second Schedule, p. 329, *post*, and notes to s. 26, p. 105, *ante*.

(d) “**Date of operation.**”—See Second Schedule, p. 329, *post*.

30. Treatment of a clearance area.—(1) A local authority (*a*) who have under this Part of this Act purchased any land comprised in, or surrounded by, or adjoining, a clearance area shall, so soon as may be (*b*), cause every building thereon to be vacated (*c*) and, subject to compliance with any provision contained in a compulsory purchase order (*d*) with respect to the carrying out of re-housing operations (*e*), shall deal with that land in one or other of the following ways, or partly in one of these ways and partly in the other of them, that is to say—

- (a) they shall demolish every building thereon before the expiration of six weeks from the date on which it is vacated, or before the expiration of such longer period as in the circumstances they deem reasonable, and thereafter may sell or let the land (*f*) subject to such restrictions and conditions, if any, as they think fit (*g*), or may, subject to the approval of the Minister, and subject to the like restrictions as are contained in section one hundred and sixty-three of the Local Government Act, 1933 (*h*), with respect to the appropriation of land by local authorities under that section, appropriate the land for any purpose for which they are authorised to acquire land; or
- (b) they shall, so soon as may be, sell or let the land subject to a condition that the buildings thereon shall be demolished forthwith and subject to such restrictions and other conditions, if any, as they think fit (*i*):

Provided that, in lieu of selling the land, the authority may, where the owner of other land (being land which the authority have power to acquire) is willing to take the land in exchange for that other land, exchange it for that other land either with or without paying or receiving money for equality of exchange, and in relation to any such exchange the like provisions shall have effect as respects the land to be given in exchange by the authority as have effect by virtue of the foregoing provisions of this section as respects land sold thereunder.

(2) Land sold, exchanged or leased under this section shall be sold, exchanged or leased at the best price, for the best consideration, or for the best rent, that can reasonably be obtained having regard to any restriction or condition imposed.

(3) For the purposes of this section "sale" includes sale in consideration of a chief rent, rentcharge or other

similar periodical payment, and "sell" has a corresponding meaning.

NOTES TO SECTION 30

General Note.—This section provides that on acquisition of the land comprised in a clearance area or surrounded by or adjoining a clearance area, the authority shall

- (i) Secure the vacation of buildings, and
- (ii) (a) demolish buildings within 6 weeks of vacation (or within such longer period as they deem reasonable) and
(b) appropriate (carrying out requirements of compulsory purchase order as to appropriation for re-housing if any), or sell or lease land, as case may be, or
- (iii) sell or lease land (except land required by a compulsory purchase order to be appropriated for re-housing) on condition of immediate demolition.

(a) "**Local authority.**"—See ss. 1 and 33.

(b) "**So soon as may be.**"—In some cases in the past, local authorities after acquiring land in an unhealthy area, have found it inconvenient to commence clearance operations immediately and have allowed the tenants of the condemned houses to continue in occupation, the local authority collecting the usual rent from the tenants. The practice was never challenged in the courts, but it was regarded very unfavourably by displaced landlords. This requirement was originally inserted in the Act of 1935 to meet this objection. See, however, Ministry of Health Circular 1866/39 dated the 8th September, 1939. In that circular the Minister advised the postponement of all demolitions in view of the possible destruction of housing accommodation. In view of the present shortage it is likely that the policy of this circular will continue for a time at least.

(c) "**Vacated.**"—See s. 155, p. 283, *post* (Recovery of possession of buildings subject to demolition or clearance order).

(d) "**Compulsory purchase order.**"—See preceding section and First Schedule, p. 321, *post*, and notes thereto. A compulsory purchase order made in connection with a clearance area must show: (a) what parts, if any, of the land to be purchased compulsorily are outside the clearance area; and (b) what buildings, if any, to be purchased compulsorily are included in the clearance order only on the ground that by reason of their bad arrangement in relation to other buildings, or the narrowness or bad arrangement of the streets, they are dangerous or injurious to the health of the inhabitants of the area.

(e) "**Re-housing operations.**"—Under the Housing Act, 1930, and Second Schedule, it might be made a requirement of the compulsory purchase order that the land acquired or a part of it should be used for re-housing purposes. These provisions were repealed by the Housing Act, 1935, Sixth Schedule (28 Halsbury's Statutes 270), and are not re-enacted in the First Schedule to this Act, p. 321, *post*. This provision will, however, apply to orders made before August 2, 1935, which required land included in the order to be so used.

(f) "**May sell or let the land.**"—It will be observed that the consent of the Minister of Health is not necessary to such selling or letting, but the land can only be *appropriated* with the approval of the Minister.

(g) "**Subject to such restrictions or conditions . . . as they think fit.**"—Apart from their planning powers, where a resolution to plan has been passed under the Town and Country Planning Act, 1932, it would seem that the local authority could under this section impose restrictions or conditions when conveying or assigning the land. Presumably these would be by way of covenants in the deed of conveyance or lease as the case might be. By s. 148, p. 280, *post*, the local authority are given power to enforce covenants

not only against the covenantor but against any person deriving title under him. As to scope of s. 148, see note thereto, p. 280, *post*. See also the next section, which gives the Minister power to substitute a clearance order for a compulsory purchase order or to authorise the authority to enter into covenant for the demolition of the buildings.

(*h*) **Local Government Act, 1933, s. 163** (26 Halsbury's Statutes 396, 397).—This section provides as follows :—

163. Power to appropriate land.—(1) Any land belonging to a local authority and not required for the purposes for which it was acquired or has since been appropriated may be appropriated for any other purpose approved by the Minister for which the local authority are authorised to acquire land :
Provided that—

(i) the local authority shall not on any land so appropriated—

(a) create or permit any nuisance ; or

(b) sink any well for the public supply of water, or construct any cemetery, burial ground, destructor, sewage farm, or hospital for infectious diseases, unless, after local inquiry and consideration of any objections made by persons affected, the Minister, subject to such conditions as he thinks fit, authorises the work or construction ;

(ii) the appropriation of land by a local authority shall be subject to any covenant or restriction affecting the use of the land in their hands.

(2) In the case of an appropriation under this section of land acquired under any enactment (including any enactment in this Act) or statutory order incorporating the Lands Clauses Acts, any work executed on the land after the appropriation has been effected shall, for the purposes of section sixty-eight of the Lands Clauses Consolidation Act, 1845, be deemed to have been authorised by the enactment or statutory order under which the land was acquired.

(3) On an appropriation of land under this section such adjustment shall be made in the accounts of the local authority as the Minister may direct.

(i) **Paragraph (b).**—In this respect, see also s. 31.

31. Arrangements where acquisition of land in a clearance area found to be unnecessary.—Where a local authority (*a*) have submitted to the Minister an order for the compulsory purchase of land in a clearance area (*b*), and the Minister, on an application for an authorisation under this section being made to him by the owner (*c*) or owners of the land and the authority, is satisfied that the owner or owners of the land, with the concurrence of any mortgagee thereof, agree to the demolition of the buildings thereon and that the authority can secure the proper clearance of the area without acquiring the land, the Minister may—

(a) in a case where the order has not been confirmed, authorise the authority to submit, forthwith and without any previous publication or service, a clearance order with respect to the buildings, and upon their so doing may modify the compulsory purchase order by excluding the land therefrom

and confirm the clearance order without causing an inquiry to be held ; or

- (b) in a case where the compulsory purchase order has been confirmed but the land has not become vested in the authority, authorise them to discontinue proceedings for the purchase of the land on their being satisfied that such covenants (*d*) have been or will be entered into by all necessary parties as may be requisite for securing that the buildings shall be demolished in like manner, and the land become subject to the like restrictions and conditions, as if the authority had dealt with the land in accordance with the provisions of the last foregoing section.

NOTES TO SECTION 31

General Note.—This section enables a local authority with the consent of the Minister to substitute a clearance order for a compulsory purchase order made under this Part of the Act or to authorise the discontinuance of the purchase of the land either

- (1) before the confirmation of the compulsory purchase order ; or
- (2) after the confirmation of the order, but before the purchase of the land has been completed.

This power was introduced by the Housing Act, 1935. It can be exercised only if

- (1) an application is made to the Minister by the owner of the land and the local authority for authority to make the substitution ;
- (2) the local authority is satisfied that the owner of the land, with the concurrence of any mortgagee thereof, agrees to the demolition of the buildings thereon ; and
- (3) the authority can secure the proper clearance of the area without acquiring the land.

When the requisite conditions exist the Minister may proceed in either of the following ways as the case may be :

- (a) Before confirmation : authorise the authority to submit immediately without previous publication or service a clearance order with respect to the buildings on the land. On this being done the Minister has power to modify the compulsory purchase order by excluding the particular land therefrom and to confirm the clearance order without holding an inquiry.
- (b) After confirmation : authorise the authority to discontinue proceedings for the purchase of the land on being satisfied that such covenants have been or will be entered into by all necessary parties as will secure
 - (i) that the buildings will be demolished, and
 - (ii) that the land will become subject to the like restrictions and conditions as if the authority had dealt with the land in accordance with the provisions of s. 30.

The section, it seems, is intended to enable local authorities to enlist the support of owners, who are willing to demolish and re-develop their property, in the abolition of slums and provides an expeditious way of dealing with the matter. As to re-development by owners, see s. 50 (p. 155, *post*).

It is to be noted that para. (a) makes no provision for taking covenants from owners as to restrictions, etc., in the same way as para. (b). The explanation is that when a clearance order becomes operative as in para. (a) the authority have power by s. 26 (5) (p. 104, *ante*) to impose such restrictions and conditions as they think fit on the future user of the land. In the case

of a compulsory purchase order, the land becomes subject to the conditions contained in the preceding section. When covenants are entered into by an owner by virtue of para. (b), the authority are given power to enforce the covenants by s. 148 (p. 280, *post*), which takes the place and extends s. 110 of the Act of 1925, repealed.

In either of these cases the authority will be able to secure the grant for the re-housing of persons displaced from the demolished premises.

(a) "Local authority."—See ss. 1 and 33.

(b) "Compulsory purchase of land in a clearance area."—See s. 29, p. 112 *ante*.

(c) "Owner."—The term "owner" is defined by s. 188 (1), p. 311, *post*.

(d) "Covenants."—As to the power to enforce these, see s. 148, p. 280, *post*.

32. Power of local authority to purchase cleared land which owners have failed to re-develop.—

(1) Where land has been cleared of buildings in accordance with a clearance order, the local authority may, at any time after the expiration of eighteen months (a) from the date on which the order became operative (b), by resolution determine to purchase (c) any part of that land which at the date of the passing of their resolution has not been, or is not in process of being, used for building purposes or otherwise developed by the owner (d) thereof in accordance with plans approved by the authority and any restrictions or conditions (e) imposed under subsection (5) of section twenty-six of this Act.

(2) Where a local authority have determined to purchase land under this section, they may purchase that land by agreement or they may be authorised to purchase that land compulsorily by a compulsory purchase order (f) made and submitted to the Minister and confirmed by him in accordance with the provisions of the First Schedule to this Act.

(3) An order authorising the compulsory purchase of land for the purposes of this section shall be submitted to the Minister within three months after the date of the passing of the resolution to purchase.

(4) The provisions of the Second Schedule (g) to this Act shall have effect with respect to the validity and date of operation, of a compulsory purchase order made under this section.

(5) A local authority shall deal with any land purchased by them under this section by sale, letting, or appropriation, in accordance with the provisions of section thirty of this Act.

NOTES TO SECTION 32

General Note.—This section enables the local authority to purchase land cleared in accordance with a clearance order which the owners have not developed or commenced to develop within eighteen months from the date on which the clearance order became operative.

(a) “**Months.**”—*I.e.* calendar months: Interpretation Act, 1889, s. 3 (18 Halsbury’s Statutes 993).

(b) “**Operative.**”—See Second Schedule, p. 329, *post*.

(c) “**Purchase.**”—Either by agreement or compulsorily. In the latter case a compulsory purchase order will be necessary. The compulsory purchase order in this case must be submitted to the Minister within three months after the date of the passing of the resolution to purchase: sub-s. (3).

(d) “**Owner.**”—See definition in s. 188 (1), p. 311, *post*.

(e) “**Restrictions or conditions.**”—In determining the value of the land it would seem that regard should be had to the effect of any such restrictions or conditions lawfully imposed under s. 26 (5) and not appealed against or quashed.

(f) “**Compulsory purchase order.**”—As to this, see notes to s. 29, p. 112, *ante*, and First Schedule, p. 321, *post*.

(g) “**Second Schedule.**”—See p. 329, *post*, and notes to s. 26, p. 105, *ante*.

33. Local authority for clearance areas in London (other than the City).—Within a metropolitan borough both the London County Council and the council of the borough shall be local authorities for the purposes of the provisions of this Part of this Act relating to clearance areas:

Provided that—

- (a) where the borough council are about to take into consideration a proposal that any area shall be declared by them to be a clearance area, they shall give to the county council notice in writing of their intention, and shall not declare that area to be a clearance area until two months have elapsed from the date of the service of that notice, or if before the expiration of that period the county council notify the borough council that they intend themselves to deal with that area either as a clearance area or as part of a clearance area; and if in any such case as aforesaid the county council do not give notice of their intention to deal with the area and the borough council proceed to declare the area to be a clearance area, the county council may, if they think fit, make a contribution towards any expenses incurred by the borough council in dealing with the area;

- (b) where an official representation (a) relating to not more than ten houses is made to the county council, the county council shall, unless they consider that the area should be dealt with by them as a clearance area, forward the representation to the borough council concerned.

NOTES TO SECTION 33

This section reproduces s. 16 (5) of the Act of 1930.

A. Powers of the London County Council (outside the City of London).

(1) To be the authority (co-existent in any metropolitan borough with the borough council) for purposes of the provisions as to clearance orders.

(2) When the L.C.C., on being notified of a borough council's intention to deal with an area as a clearance area, do not give notice of their intention to proceed with the area, and the borough council proceed to declare the area to be a clearance area, to make a contribution towards any expenses of the metropolitan borough council in dealing with the area.

B. Powers of Metropolitan Borough Councils.

To be the authority (co-existent with the L.C.C.) for purposes of the provisions of this Part of the Act as to clearance areas, provided that—

When the metropolitan borough council are considering the declaration of any area as a clearance area they must give to the county council notice in writing of their intention, and must not make such declaration until the expiry of two months from service of such notice, or if before the end of that period the L.C.C. notify the borough council that they themselves intend to deal with that area as a clearance area or part of a clearance area.

In *R. v. Minister of Health, Ex parte Finsbury Borough Council* (1934), 32 L. G. R. 349; Digest Supp., it was held that the L.C.C. were entitled to declare an area to be a clearance area or to make clearance or compulsory purchase orders in relation thereto notwithstanding that a metropolitan borough council had lawfully declared the same area and had submitted orders to the Minister for confirmation. The basis of the decision was that under s. 16 of the 1930 Act, both the L.C.C. and the metropolitan borough council were "local authorities," and there was nothing in s. 16 (5), proviso (ii) (which corresponds with proviso (a) to this section), to disentitle the L.C.C. to act in relation to the same property at the same time as the metropolitan borough council, and it was for the Minister to decide between the competing proposals.

C. Special duties of London County Council.

When an official representation relating to not more than ten houses is made to the L.C.C., they must forward the representation to the *Metropolitan Borough Council* concerned, unless they consider that the area should be dealt with by them as a clearance area.

(a) "**Official representation.**"—See s. 154, p. 283, *post*, and note (c) to s. 9 and note (b) to s. 11, pp. 64 and 73, *ante*.

Re-development Areas.

34. Duty of local authority to secure re-development.—(1) If the local authority for any urban area (that is to say, the City of London, the rest of the administrative county of London, a county borough, a non-county

borough, or an urban district) are satisfied, as a result of an inspection carried out under section fifty-seven of this Act (a) or otherwise, that their district comprises any area in which the following conditions exist, that is to say—

- (a) that the area contains fifty or more working-class houses ;
- (b) that at least one-third (b) of the working-class (c) houses in the area are overcrowded (d), or unfit for human habitation (e) and not capable at a reasonable expense of being rendered so fit (f), or so arranged as to be congested ;
- (c) that the industrial and social conditions (g) of their district are such that the area should be used to a substantial extent for housing the working classes ; and
- (d) that it is expedient in connection with the provision of housing accommodation for the working classes that the area should be re-developed as a whole ;

it shall be the duty of the local authority to cause the area to be defined on a map (h), and to pass a resolution declaring the area so defined to be a proposed re-development area.

(2) As soon as may be after a local authority have passed a resolution under the foregoing subsection, they shall send a copy of the resolution and of the map to the Minister, and shall publish in one or more local newspapers circulating in their district a notice stating that the resolution has been passed and naming a place within their district where a copy of the resolution and of the map may be inspected.

NOTES TO SECTION 34

General Note.—This section reproduces s. 13 of the Act of 1935. It imposes a duty on local authorities to declare certain areas, where they are satisfied that the conditions prescribed by the section exist, to be “proposed re-development areas.” In the case of war damaged areas action will presumably be taken under the Town and Country Planning Act, 1944. (See Hill’s Town and Country Planning, 3rd Edition, pp. 226 *et seq.*) Areas of bad layout and obsolete development can be dealt with under s. 9 of the 1944 Act. Under that section re-development may be achieved as an ancillary to a town improvement. Para. 9 of the 5th Schedule to the 1944 Act ensures that unfit houses comprised in the area of the order may be acquired in accordance with the provisions of s. 40 of this Act (site value), p. 135, *post*.

Steps to be taken by local authorities—

1. Local authority must satisfy themselves that the conditions mentioned in this section exist.
2. Definition of area on a map.
3. Pass resolution declaring area so defined to be a proposed re-development area.
4. Send a copy of the resolution and of the map to the Minister of Health.

5. Publish in one or more local newspapers a notice stating that the resolution has been passed and naming a place within their district where a copy of the resolution and of the map may be inspected.
6. Prepare a re-development plan indicating—
 - (1) the land intended to be used for the provision of houses for the working classes ;
 - (2) the land to be used for streets ;
 - (3) the land to be used for open spaces ; and
 - (4) generally, the manner in which it is proposed that the defined area should be laid out.
7. Publish in one or more local newspapers a notice stating that the plan has been prepared, and is about to be submitted to the Minister, naming a place within their district where the plan may be inspected and specifying the time within which, and the manner in which, objections to the re-development indicated by the plan can be made.
8. Serve a notice to like effect on—
 - (1) every owner ;
 - (2) every lessee and occupier (except tenants for a month or any period less than a month) ;
 - (3) all statutory undertakings owning apparatus in the area.
9. Submit re-development plan to the Minister, who must cause a local inquiry to be held before approving the plan if objections are made and not withdrawn.
10. On receipt of notice of Minister's approval, publish in one or more local newspapers a notice that the re-development plan has been approved and naming a place within their district where a copy of the plan may be inspected.
11. Serve a like notice to that published in the newspaper on every person who, having given notice to the Minister of his objection to the plan, appeared at the local inquiry in support of his objection.
12. Proceed to carry out or secure the carrying out of the plan. Local authority may with the approval of the Minister purchase—
 - (a) land in the re-development area ; and
 - (b) any land outside that area which they may require for the purpose of providing accommodation for persons occupying premises within that area which they have purchased or agreed to purchase or in respect of which they have submitted compulsory purchase orders.

For advertisement and notices of the preparation and confirmation of a re-development plan, see S.R. & O. 1937, No. 78, Forms 42 and 43, p. 535, *post*.

(a) **Section 57.**—This section requires local authorities to inspect and make reports and proposals as to overcrowding. See p. 165, *post*, and see also s. 5, p. 53, *ante*.

(b) **"One-third."**—It is submitted that the "one-third" need not be made up wholly of houses which are overcrowded, or wholly of houses which are unfit, or wholly of houses which are congested ; it can comprise houses of each of these categories, $\frac{1}{3}$ overcrowded, $\frac{1}{3}$ unfit, $\frac{1}{3}$ congested, but this is not free from doubt.

(c) **"Working class."**—See note (f) to s. 6 on p. 57, *ante*.

(d) **"Overcrowded."**—See s. 58, p. 170, *post*.

(e) **"Unfit for human habitation."**—See note (h) to s. 25, p. 99, *ante*.

(f) **"Not capable at a reasonable expense of being rendered so fit."**—See ss. 9 and 11, *ante*, pp. 62 and 70, and notes thereto.

(g) **"Industrial and social conditions."**—An area might, for example, be situated close to docks, and for this reason it may be very desirable to develop it as a whole as a housing estate to house the dock-workers, who are

frequently called on duty at very short notice and at varying hours of the day and night. For this and other similar reasons it may be necessary to house working classes on central sites rather than on the outskirts of a town. It is only where the local authority are satisfied that the area should be used to a substantial extent for housing the working classes that they may deal with an area as a re-development area. A re-development area is therefore an area which will be re-developed to a substantial extent as a re-housing estate.

(h) "**Defined on a map.**"—Only the area need be defined. It is not necessary to distinguish those houses which are alleged to be unfit for human habitation, overcrowded, or congested (*cf.* s. 36, *post*); but if challenged the local authority would be obliged to prove that the conditions mentioned in s. 34 (1) (c) actually exist, and in cross-examination at the local inquiry would be obliged to indicate the houses which they allege to be overcrowded, unfit for habitation or congested.

35. Re-development plan.—(1) Within six months after a local authority (a) have passed a resolution under the last foregoing section, or within such extended period as the Minister may allow, the authority shall prepare and submit to the Minister a re-development plan indicating the manner in which it is intended that the defined area should be laid out and the land therein used, whether for existing purposes or for purposes requiring the carrying out of re-development thereon, and in particular the land intended to be used for the provision of houses for the working classes, for streets and for open spaces.

(2) In the preparation of the plan the local authority shall have regard to the provisions of any planning scheme (b) or proposed planning scheme relating to the defined area or land in the neighbourhood thereof.

(3) Before submitting the plan to the Minister the local authority shall—

(a) publish in one or more local newspapers circulating in their district a notice stating that the plan has been prepared and is about to be submitted to the Minister, naming a place within their district where the plan may be inspected, and specifying the time within which, and the manner in which, objections can be made; and

(b) serve a notice (c) to the like effect on every owner, lessee and occupier (except tenants for a month or any period less than a month) of land in the defined area and on all statutory undertakers owning apparatus in that area.

(4) If no objection (d) is duly made by any of the persons upon whom notices are required to be served, or if all objections so made are withdrawn, the Minister may, if he thinks fit, approve the plan, either without modification or with such modifications as he thinks fit (including, if he thinks

fit, the alteration of the defined area so as to exclude land therefrom, but not so as to add land thereto), but in any other case he shall, before approving the plan, cause a public local inquiry (*e*) to be held and shall consider any objection not withdrawn and the report of the person who held the inquiry, and may thereafter approve the plan with or without any such modifications as aforesaid.

(5) On receipt of notice of the Minister's approval the local authority shall publish in one or more local newspapers circulating in their district a notice stating that the re-development plan has been approved and naming a place within their district where a copy thereof may be inspected, and shall serve a like notice (*f*) on every person who, having given notice to the Minister of his objection to the plan, appeared at the public local inquiry in support of his objection.

(6) Where, after a re-development plan has been approved, it appears to the local authority that any land in the re-development area (that is to say the defined area or so much thereof as is comprised in the plan as approved) ought to be re-developed or used otherwise than as indicated in the plan, the authority shall prepare and submit to the Minister a new plan (*g*) as respects that land, and the provisions of this section with respect to publication, service of notices and approval by the Minister shall have effect in relation to the new plan, with the substitution of references to the new plan and to the land comprised therein, for references to the re-development plan and to the defined area.

(7) The provisions of the Second Schedule (*h*) to this Act shall have effect with respect to the validity and date of operation of the Minister's approval of a re-development plan or of a new plan.

(8) In the following provisions of this Act references to re-development or use in accordance with a re-development plan shall be construed as references to re-development or use in accordance with a re-development plan approved under this section or, in the case of land comprised in a new plan approved under this section, in accordance with the new plan.

NOTES TO SECTION 35

General Note.—This section reproduces s. 14 of the Act of 1935. It deals with the preparation of the re-development plan. It does not follow that the local authority will carry out the re-development themselves. A local authority may make arrangements with some other person or persons for the carrying out of the re-development in accordance with the plan (s. 36).

The wording of sub-s. (1) of this section is such as to create a doubt as to whether a re-development plan need do anything more than show that the area shall continue to be used for existing purposes without any re-development being effected. The sub-section as originally drafted was probably clear; it read as follows:

“(1) Within six months after a local authority have passed a resolution under the last foregoing section, or within such extended period as the Minister may allow, the authority shall prepare and submit to the Minister a re-development plan indicating the land intended to be used for the provision of houses for the working classes, for streets, or for open spaces, and generally the manner in which it is proposed that the defined area should be laid out.”

Now the plan must show the manner in which it is intended that the defined area should be laid out and the land therein used, “whether for existing purposes or for purposes requiring the carrying out of re-development thereon.” This seems to be an attempt to enact that a local authority may deal with an area as a re-development area without carrying out or securing the carrying out of any re-development.

The special powers conferred by s. 80 in connection with the provision of housing accommodation should be noted. With the consent of the Minister, the local authority may provide shops, recreation grounds, public houses, churches, etc. (See p. 200, *post.*) On the authority of *Frost v. Minister of Health*, [1935] 1 K. B. 286; 99 J. P. 87; Digest Supp., and *Offer v. Minister of Health*, [1936] 1 K. B. 40; 99 J. P. 347; Digest Supp., it would seem that local authorities can consult the Minister on the proposed plan and the Minister can tender advice up to the time when objections are made by owners. As soon as objections are made the Minister acts in a judicial capacity, and on the authority of *Errington v. Minister of Health*, [1935] 1 K. B. 249; 99 J. P. 15; Digest Supp., cannot either advise or be consulted in the absence of the objectors, but see *Horn v. Minister of Health*, [1937] 1 K. B. 164; [1936] 2 All E. R. 1299; 100 J. P. 463; Digest Supp. If no objections are made it would seem the Minister can continue to advise and the authority to consult him during the remaining stages of the re-development plan.

(a) “**Local authority.**”—See ss. 34 and 37.

(b) “**Planning scheme.**”—See definition in s. 188 (1), p. 311, *post.*, and, generally, see Hill’s Town and Country Planning, 3rd Edn.

(c) “**Serve a notice.**”—See s. 167, p. 293, *post.* As to forms of advertisement or personal notice of the preparation of a re-development scheme, see p. 535. *post.*

(d) **Objections to re-development plan.**—The following would appear to be possible grounds of objection:

- (1) That the conditions existing in the proposed re-development area do not justify its treatment as a re-development area.
- (2) That the social and industrial conditions of the district are not such that the area should be used to a substantial extent for housing persons of the working classes.
- (3) That it is not expedient in connection with the provision of housing accommodation for the working classes that the area should be re-developed as a whole.
- (4) That the formalities of sub-s. (2) of s. 34 and of sub-s. (3) of s. 35 have not been complied with by the local authority.
- (5) That the proposed method of re-developing the area is not the best method.
- (6) That the objector’s property has been unnecessarily included in the area and ought to be excluded.

(e) **The local inquiry.**—It would seem that objectors can raise the question at the inquiry as to whether the required number of unfit, overcrowded or

congested houses exists in the area and the authority would be bound to prove this—it being a condition precedent to their declaring an area to be a re-development area.

For a case in which importance was attached to the words “*cause a public local inquiry to be held*,” see HAMILTON, L.J. (afterwards Lord SUMNER), in *R. v. Local Government Board, Ex parte Arlidge*, [1914] 1 K.B. 160, at p. 198 and see also the judgment of SWIFT, J., in *Marriott v. Minister of Health* (1935), 100 J. P. 41; affirmed on appeal, [1937] 1 K.B. 128; [1936] 2 All E.R. 865, C.A.; Digest Supp.

The inquiry will probably be held by a housing inspector from the Ministry of Health. See s. 178 p. 304, and notes thereto.

(f) **Notice of Minister's approval.**—For forms, see p. 536, *post*.

(g) **“A new plan.”**—This provides a method by which the original plan may be amended. Note that the same procedure must be followed as regards the publication and service of notices and obtaining the approval of the Minister as in the case of the original plan.

(h) **“Second Schedule.”**—See p. 329, *post*. As to cases under these provisions, see notes to s. 26, p. 105, *ante*.

36. Purchase of land for purposes of re-development.—(1) When the Minister's approval of a re-development plan has become operative (a), the local authority (b) may with the approval of the Minister purchase by agreement, or may be authorised by means of an order made and submitted to the Minister and confirmed by him in accordance with the First Schedule to this Act to purchase compulsorily (c),—

(a) land (d) in the re-development area; and

(b) any land outside that area which they may require for the purpose of providing accommodation (e) for persons occupying premises within that area which they have purchased or agreed to purchase, or in respect of which they have submitted compulsory purchase orders.

(2) It shall be the duty of the local authority within the appropriate period specified in this subsection either to enter into agreements with the approval of the Minister for the purchase, or to make and submit to the Minister orders for the compulsory purchase, of all land in the re-development area other than land in respect of which the local authority have within that period made arrangements (f) with other persons for the carrying out of re-development, or for securing the use of the land, in accordance with the re-development plan.

The appropriate period for the purposes of this subsection shall be—

(a) in the case of land shown in the re-development plan as intended for the provision of houses for

the working classes, six months from the date when the Minister's approval of the re-development plan becomes operative ;

- (b) in the case of other land in the re-development area, two years from that date ;

or, in either case, such extended period as the Minister may, on the application of the local authority, allow in respect of any land.

(3) Where a local authority submit to the Minister an order for the compulsory purchase under this section of land which comprises or consists of a house which in their opinion is unfit for human habitation (*g*) and not capable at reasonable expense of being rendered so fit (*h*), the order as submitted shall be in a form prescribed (*i*) for the purpose of indicating that the house is in that condition, and, if the Minister is of opinion that the house is properly so indicated, the order as confirmed may authorise the authority to purchase the house as being in that condition.

(4) The provisions of the Second Schedule to this Act shall have effect with respect to the validity and date of operation of a compulsory purchase order made under this section.

(5) Nothing in this section shall authorise the compulsory acquisition of any land which is the property of a local authority or is the property of statutory undertakers (*j*), having been acquired by them for the purposes of their undertaking, and the obligations imposed on the local authority by subsection (2) of this section shall not apply with respect to any such land.

(6) Land purchased by a local authority under this section for the provision of houses for the working classes shall be deemed to have been acquired by them under Part V of this Act.

(7) Land purchased by a local authority under this section otherwise than for the provision of houses for the working classes (*k*) may, with the consent of the Minister, be sold or leased to any person, or exchanged for other land which the local authority have power to acquire either with or without paying or receiving money for equality of exchange, subject, in the case of land in the re-development area, to conditions for securing that it shall be re-developed or used in accordance with the re-development plan.

(8) When the Minister's approval of a re-development plan has become operative and the plan comprises any land of the local authority (*l*), the provisions of this Act shall apply in relation to that land as if it had been land

in the re-development area purchased by the authority under this section.

NOTES TO SECTION 36

General Note.—This section reproduces s. 15 of the Act of 1935. It provides for the carrying out of the re-development in accordance with the plan. Local authorities will first have to decide whether they will carry out the re-development themselves or whether they will make an arrangement with some other person or persons to do so. In the former case it will be necessary for them to take steps to acquire the land either by agreement or compulsorily, and if they decide to acquire compulsorily, they will have to make a compulsory purchase order in accordance with the provisions of the First Schedule to the Act (p. 321, *post*). In the latter case, if the person or persons who it is proposed should carry out the re-development are not the absolute owners of all the land, it may be necessary for the local authority to acquire land and convey it to them (see sub-s. 7). In deciding whether or not the council will themselves carry out the re-development of the area they will have to bear in mind that the Minister has power after the inquiry into the compulsory purchase (if any) to permit any objector who is willing to enter into arrangements with the council to carry out the re-development in accordance with the plan to so carry it out himself.

It should be observed that even where it is proposed to acquire land by agreement the approval of the Minister will be necessary.

(a) **"Operative."**—As to when a re-development plan becomes operative, see the provisions of the Second Schedule, p. 329, *post*, and notes to s. 26, p. 105, *ante*.

(b) **"Local authority."**—See s. 1, and as to London, s. 37.

(c) **Objections to compulsory purchase order.**—See First Schedule, p. 321, *post*, and note (z) thereto at p. 328, *post*.

(d) **"Land."**—By s. 188 (1) "land" includes any right over land. By the Interpretation Act, 1889, s. 3 (18 Halsbury's Statutes 993), the word "land," when it occurs in a statute, includes the buildings thereon.

(e) **"Providing accommodation."**—As to the obligations of the authority to provide accommodation for persons of the working classes displaced by re-development, see s. 45 (2), p. 146, *post*. Exchequer contributions will be payable under the Housing (Financial and Miscellaneous Provisions) Act, 1946; see p. 427, *post*. For optional payment of allowances for expenses of removal to persons displaced by re-development and of allowances for losses to persons carrying on a trade or business displaced from unfit houses, see s. 44, p. 145, *post*.

(f) **"Arrangements."**—It is desirable that such arrangements should be by deed. If the deed contains covenants it will be possible to enforce them under s. 148, p. 280, *post*.

(g) **Houses unfit for human habitation.**—Compensation for such houses is the same as for unfit houses included in a clearance order, *i.e.* site value (see s. 40 (3), p. 135, *post*). For all other land purchased under this section the compensation is the market value subject to the provisions of the Fourth Schedule.

(h) **"Not capable at reasonable expense of being rendered so fit."**—As to the meaning of this phrase, see ss. 9 and 11, pp. 62, 70, *ante*.

(i) **Prescribed form.**—For form, see p. 537, *post*. Note that in confirming an order the Minister cannot authorise a local authority to purchase a house as being unfit for human habitation or not capable at reasonable expense of being rendered so fit unless it is so indicated in the order as submitted to him.

(j) **Protection for statutory undertakers.**—Land acquired by a local authority or which is the property of statutory undertakers, having been

acquired by them for the purposes of their undertaking, cannot be compulsorily acquired.

(k) "**Land purchased . . . for the provision of houses for the working classes.**"—Such land is deemed to have been acquired under Part V of this Act. Section 79 of this Act confers powers of dealing with such land. (See p. 198, *post*.) The provisions of the Acquisition of Land (Authorisation Procedure) Act, 1946, apply in the case of acquisitions under Part V. For the provisions relating to the making, validity and operation of compulsory purchase orders see the First Schedule to that Act, p. 653, *post*.

(l) "**Land of the local authority.**"—The provisions of the Act are made applicable to any land belonging to the local authority which is included in a re-development plan.

This section is duplicated in many respects by the Town and Country Planning Act, 1944. See s. 2 of that Act for the purchase of land for the re-development of areas of war damage and s. 9 for the re-development of areas of bad layout and obsolete development. Compare also the powers of appropriation and disposal contained in s. 19 of that Act with sub-sections (6) and (7) of this section and with s. 79 of this Act, p. 198, *post*.

37. Local authority for re-development areas in London (other than the City).—As respects the administrative county of London other than the City of London the London County Council shall be the local authority for the purposes of the provisions of this Part of this Act relating to re-development areas :

Provided that where a metropolitan borough council give notice in writing to the London County Council that in their opinion their district comprises an area (the limits of which shall be specified) which ought to be defined as a proposed re-development area, and that they intend to pass such a resolution as is mentioned in subsection (1) of section thirty-four of this Act, the metropolitan borough council shall, as respects that area and subject as hereinafter provided, be the local authority for the purposes of the provisions of this Part of this Act relating to re-development areas—

- (a) if the London County Council within two months after the date of the receipt by them of such notice do not notify the metropolitan borough council that they intend themselves to deal with the area as a re-development area or as part of a re-development area, or as a clearance area or part of a clearance area, or that they propose to acquire the area or any part thereof as a site for the erection of houses for the working classes ; or
- (b) if the London County Council notify the metropolitan borough council that they do not so intend to deal with the area or any part thereof ;

so, however, that—

- (i) if a metropolitan borough council who become, in pursuance of this proviso, the local authority as respects that area do not submit to the Minister a re-development plan relating to that area within a period of two years after the date on which the metropolitan borough council so became the local authority, or such further period as may be approved by the Minister ; or
- (ii) if the Minister decides that the area is not a suitable one to be dealt with by the metropolitan borough council ;

the metropolitan borough council shall cease to be, and the London County Council shall be, the local authority as aforesaid as respects that area without prejudice to the rights of the metropolitan borough council to give a further notice under this proviso to the London County Council.

NOTES TO SECTION 37

Metropolitan Borough Councils, the London County Council and Re-development Areas.—This section provides that the L.C.C. shall be the local authority as regards the administrative County of London (other than the City of London) to the exclusion of any other authority, but a proviso to the sub-section prescribes circumstances in which a metropolitan borough may become the local authority. These circumstances are :

1. The metropolitan borough council notify the L.C.C. in writing—
 - (a) that in their opinion their district comprises an area (the limits of which must be specified) which ought to be defined as a proposed re-development area, and
 - (b) that they intend to pass a resolution declaring the area to be a proposed re-development area.
2. The L.C.C. do not, within two months after the date of the receipt by them of such notice, notify the metropolitan borough council—
 - (a) that they intend themselves to deal with the area as a re-development area or as part of a re-development area, or as a clearance area or part of a clearance area, or
 - (b) that they propose to acquire the area or any part thereof as a site for the erection of dwelling-houses for the working classes ; or
3. The L.C.C. notify the borough council that they do not so intend to deal with the area or any part thereof.

A metropolitan borough council who have become a local authority in the above manner may, however, cease to be a local authority—

- (1) if they do not submit to the Minister a re-development plan relating to the area within two years after the date on which they became the local authority, or such further period as the Minister may allow ;
- (2) if the Minister decides that the area is not a suitable one to be dealt with by the metropolitan borough council.

Upon the metropolitan borough council ceasing to be the local authority the L.C.C. become the local authority but without prejudice to the right of the borough council to give a further notice under this proviso.

The L.C.C. are also the planning authority for the purposes of Part I of the Town and Country Planning Act, 1944 ; but may relinquish their powers to a Metropolitan Borough Council under s. 56 (1). As to the Common Council of the City of London, see s. 56 (2) of that Act. (See Hill's Town and Country Planning, 3rd Edition.)

Improvement Areas.

38. Improvement areas.—(1) A local authority (a) who have passed a resolution under section seven of the Housing Act, 1930 (b), declaring an area to be an improvement area, shall as soon as may be—

(a) in the case of houses which are unfit for human habitation (c), serve notices under Part II (d) of this Act requiring the execution of all necessary works thereon, or the demolition thereof, and enforce compliance with those notices (e); and

(b) in so far as the improvement of the area involves the purchase of land (f) for opening out the area, proceed to purchase that land unless the authority are satisfied that the opening out of the area will be adequately carried out by the owner or owners of the land.

(2) Where a local authority have determined to purchase land under this section, they may purchase that land by agreement, or they may be authorised to purchase that land compulsorily by means of a compulsory purchase order made and submitted to the Minister and confirmed by him in accordance with the provisions of the First Schedule (g) to this Act.

(3) An order authorising the compulsory purchase of land for the purposes of this section shall be submitted to the Minister within twelve months after the date of the resolution declaring the area to be an improvement area, or within such longer period as the Minister may, in the circumstances of the particular case, allow.

(4) The provisions of the Second Schedule to this Act shall have effect with respect to the validity and date of operation of a compulsory purchase order (h) made under this section.

(5) An authority who have purchased any land under this section shall carry out, or secure the carrying out of, such demolitions as may be necessary for opening out the area, and, subject thereto, shall deal with that land by sale, letting or appropriation in accordance with the provisions of section thirty of this Act.

(6) Where any action taken by a local authority under this section with respect to a house in an improvement area results in the tenant of that house, or of any part thereof, removing therefrom, then, notwithstanding anything in section two of the Rent and Mortgage Interest Restrictions Act, 1923 (i), the Rent and Mortgage Interest

Restrictions Acts, 1920 to 1933, if applicable to that house or part, shall not cease to apply thereto by reason only of the fact that upon the removal the landlord comes into possession of the house or part of a house.

(7) The declaration of any area to be an improvement area shall not preclude any local authority from exercising any powers which in the absence of such a declaration would have been exercisable by them within that area.

NOTES TO SECTION 38

History.—This section substantially reproduces s. 8 of the Act of 1930. By s. 19 of the Act of 1935, sub-s. (1) of s. 7 of the Act of 1930 was repealed, and as from the coming into operation of that Act (August 2, 1935) local authorities had no power to declare an area to be an improvement area, but where an area was declared to be an improvement area before that date all the consequences followed which would have followed before the commencement of that Act. By s. 190 and the Twelfth Schedule, ss. 7 and 8 of the Act of 1930 were, *inter alia*, repealed. This section substantially re-enacts s. 8, which provided for the method of treating an area declared to be an improvement area. The position now is therefore the same as immediately after the commencement of the Act of 1935—no area can in future be declared an improvement area, but when an area was declared an improvement area before August 2, 1935, all those steps can be taken to carry out the resolution which could have been taken before that date.

General Note.—This section lays down the steps to be taken by a local authority to secure the improvement of an area which they had declared to be an improvement area. These steps may be summarised as follows:

- (i) the repair of insanitary houses;
- (ii) the demolition of insanitary houses which cannot be repaired at a reasonable cost;
- (iii) prevailing upon owners to pull down buildings for the purpose of opening out the area, so rendering it unnecessary for the local authority to purchase the land for this purpose;
- (iv) the purchase of land for opening out the area, if the local authority are not satisfied that this will be adequately carried out by the owner or owners.

Subject to carrying out or securing the opening out of the area, land purchased by a local authority shall be sold, let or appropriated in accordance with the provisions of s. 30 of this Act.

(a) “**Local authority.**”—See s. 1, p. 47, *ante*, and for local authorities in London, excluding the City, the next section.

(b) **Housing Act, 1930, s. 7.**—This section is now repealed (see s. 190 and Twelfth Schedule). For convenience it is here reproduced.

7. Local authority may declare unhealthy area to be improvement area.

1. Where a local authority upon consideration of an official representation or other information in their possession, are satisfied as respects any area in their district that the housing conditions in that area are dangerous or injurious to the health of the inhabitants by reason of the disrepair or sanitary defects of dwelling-houses therein, and also by reason either of overcrowding in the area or of the bad arrangement of the houses or of the narrowness or bad arrangement of the streets, and that those conditions can be effectively remedied, without the demolition of all the buildings in the area, by—

- (i) the demolition or repair, as the circumstances may require, of those dwelling-houses which are unfit for human habitation;

- (ii) the purchase by the authority of any land in the area which it is expedient for them to acquire for opening out the area and, if any buildings on that land have not previously been demolished, the demolition of those buildings, so far as it is necessary to demolish them for that purpose; and

(iii) the abatement of overcrowding in the area, the authority may cause that area to be defined on a map, and may pass a resolution declaring the area so defined to be an improvement area:

Provided that, before passing any such resolution, the authority shall satisfy the Minister that the size of the area is such that the housing conditions therein can be remedied effectively within a reasonable period and that in so far as suitable accommodation available for persons of the working classes who will be displaced by the steps which the authority propose to take for the improvement of the area does not already exist, the authority will provide, or secure the provision of, such accommodation in advance of the displacements which will from time to time become necessary as those steps are taken.

2. An authority who have passed a resolution declaring an area to be an improvement area, shall forthwith—

- (a) publish, in one or more newspapers circulating within their district, a notice stating the terms of the resolution and the date on which it was passed, and naming a place at which a copy of the resolution and of the map referred to therein may be seen at all reasonable hours; and
- (b) transmit a copy of the resolution to the Minister, together with an estimate of the number of persons of the working classes whose displacement will be rendered necessary by any steps which the authority propose to take for the improvement of the area.
- (c) “**Unfit for human habitation.**”—See notes to s. 25, p. 95, *ante*.
- (d) “**Notices under Part II.**”—See s. 9 (notices requiring repair) and s. 11 (power to order demolition).
- (e) “**Enforce compliance with those notices.**”—See s. 10, p. 67, *ante*.
- (f) “**Purchase of land.**”—Note the provisions of sub-s. (3), *infra*.
- (g) “**First Schedule.**”—See p. 321, *post*.
- (h) **Validity of a compulsory purchase order.**—See Second Schedule, p. 329, *post*, and notes to s. 26, p. 105, *ante*.

(i) “**Rent and Mortgage Interest Restrictions Act, 1923.**”—Section 2 (10 Halsbury's Statutes 365) provides that “When the landlord of a dwelling-house to which the principal Act [*i.e.* the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920] applies . . . comes into possession of the whole of the dwelling at any time after the passing of this Act, then . . . from and after the date when the landlord subsequently comes into possession, the principal Act shall cease to apply to the dwelling-house.” This section, therefore, preserves the application of the Rent and Mortgage Interest (Restrictions) Acts to those cases where a house would otherwise be decontrolled by reason only of the fact that the landlord comes into possession of the house upon the tenant removing therefrom as a result of the action of the local authority with respect to the dwelling-house. Thus, if a tenant yields up possession in order that the house may be repaired, on completion of the repairs the house will remain “controlled” even though let to a new tenant.

39. Local authority for improvement areas in London (other than the City).—(1) As respects the administrative county of London other than the City of

London, the London County Council shall, subject to the provisions of the next succeeding subsection, be the authority to determine what steps shall be taken for the improvement of an improvement area, to purchase any land which they deem it expedient to acquire for opening out the area, and to carry out such demolition of buildings and such street works on that land as they deem necessary, but the council of the metropolitan borough in which the area is situate on being informed by the county council as to the steps which the county council have determined to be necessary for the improvement of the area, shall, subject as aforesaid, take those steps and shall thereafter serve and enforce any necessary notices requiring the execution of works to houses in the area, or the demolition of houses, or the closing of parts of buildings therein :

Provided that, if it is represented to the Minister by the county council that a borough council have made default in exercising or performing any powers or duties under this subsection, the Minister may by order transfer those powers and duties to the county council and any expenses incurred by the county council in exercising or performing any powers or duties so transferred shall be a debt due from the borough council to the county council.

(2) Without prejudice to the powers of the London County Council under the last foregoing subsection, the council of a metropolitan borough shall, as regards any area within that borough which does not contain more than ten houses, be a local authority for the purposes of the provisions of this Part of this Act relating to improvement areas.

NOTE TO SECTION 39

This section reproduces sub-sections (3) and (4) of s. 16 of the Act of 1930. The powers and duties of the London County Council and Metropolitan Borough Councils are as follows :

Powers of L.C.C. (outside the City of London).

The L.C.C. are to be the authority :

- (a) to determine the steps to be taken for the improvement of the area ;
- (b) to purchase any land which they deem it expedient to acquire for the opening out of that area ;
- (c) to carry out such demolition of buildings and such street works on that land as they deem necessary ;
- (d) to perform any of the duties (a) and (b), *infra*, in which the metropolitan borough councils make default on such duties being transferred to them by the Minister in accordance with the proviso to sub-section (1).

Powers of Metropolitan Borough Councils.

- (a) to take all those steps which the L.C.C. have informed them that they have determined to be necessary for the improvement of the area ;

- (b) to serve and enforce any necessary notices requiring the execution of works on houses in the area or the demolition of houses or the closing of parts of buildings therein;
- (c) to be the authority (co-existent with the L.C.C.) for any area in their borough which does not contain more than ten houses.

General provisions as to clearance, re-development and improvement.

40. Compensation in respect of land purchased compulsorily under Part III.—(1) Where land (a) is purchased compulsorily (b) by a local authority under this Part of this Act, the compensation payable in respect thereof shall be assessed in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919 (c), subject to the following provisions of this section.

(2) The compensation to be paid for land, including any buildings thereon, purchased as being land comprised in a clearance area (d) shall be the value at the time the valuation is made of the land as a site cleared of buildings (e) and available for development in accordance with the requirements of the building byelaws for the time being in force in the district:

(f) Provided that this subsection shall not have effect in the case of the site of a house or other building (g) properly included in a clearance area only on the ground that by reason of its bad arrangement in relation to other buildings or the narrowness or bad arrangement of the streets, it is dangerous or injurious to the health of the inhabitants of the area, unless it is a building constructed or adapted (h) as, or for the purposes of, a dwelling (i), or partly for those purposes and partly for other purposes, and part thereof (not being a part used for other purposes) is by reason of disrepair or sanitary defects unfit for human habitation.

(3) The compensation to be paid for a house which the local authority are authorised to purchase under section thirty-six of this Act (j) as being unfit for human habitation and not capable at reasonable expense of being rendered so fit (k) shall be assessed in like manner as if it had been land purchased as being comprised in a clearance area.

(4) In the case of land other than land in respect of which the provisions of subsection (2) or (3) of this section have effect, the rules specified in the Fourth Schedule (l) to this Act shall be observed.

NOTES TO SECTION 40

History.—Sub-sections (1) and (2) reproduce s. 46 of the Housing Act, 1925 as amended by the Housing Act, 1935, s. 62. S. 46 provided that buildings included in a clearance area (whether dwelling-houses or other buildings) should be compensated on the basis of site value if purchased compulsorily, unless the acquiring authority intended to utilise the site for the purpose of re-housing when compensation was further reduced by the operation of a reduction factor calculated according to a complicated formula set out in the proviso to sub-s. (1) of that section. Subject to this, compensation was based on the Acquisition of Land (Assessment of Compensation) Act, 1919 (p. 721, *post*), *i.e.* market value. The proviso to sub-s. (1) of s. 46 of the Act of 1925 was repealed by the Housing Act, 1935, s. 62 (2), and houses included in a clearance order are now compensated on site value whatever the use may be to which the land acquired is to be appropriated. Houses and other buildings which are included in the area *only* on the ground that by reason of their bad arrangement in relation to other buildings or the bad arrangement of the street are, by s. 62 (1) to be compensated on the basis of market value.

Sub-section (3) reproduces s. 17 (3) of the Act of 1935, which introduced re-development areas.

The Fourth Schedule reproduces Part II of the Third Schedule to the Act of 1930 as amended by the Housing Act, 1935.

Until the 17th November, 1949, compensation will also be subject to the provisions of Part II of the Town and Country Planning Act, 1944, limiting values with reference to prices current at the 31st March, 1939. See also supplemental provisions of ss. 58 and 59. The percentage under s. 58 has been increased to 60 per cent. in cases where notice to treat is served on or after the 22nd July, 1946. See s. 60 (3) of that Act, p. 746, *post*.

General Note.**Compensation for land (including buildings) in clearance area.**

- (1) Houses which are included in the compulsory order as confirmed as unfit for human habitation by reason of disrepair or sanitary defects are compensated on the basis of site value.
- (2) Houses which are included in the order only on the ground that by reason of their bad arrangement in relation to each other or the bad arrangement of the street are compensated in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919, as modified by the Fourth Schedule, *i.e.* market value subject to any modifications made in accordance with the rules contained in the Fourth Schedule.
- (3) Other buildings included in the clearance area on the ground that they are by reason of their bad arrangement in relation to other buildings, or the narrowness or bad arrangement of the street, are compensated on the same basis as (2) above.

Compensation for land acquired under s. 27.

Compensation for land surrounded by or adjoining a clearance area the acquisition of which is reasonably necessary for the satisfactory development of the cleared area is assessed in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919, as modified by the Fourth Schedule.

Compensation for land purchased for the purposes of re-development.

- (1) Houses which are indicated in the compulsory purchase order as being unfit for human habitation and incapable of being made fit at reasonable expense have compensation assessed on the basis of site value.
- (2) Buildings other than houses so indicated have compensation assessed in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919, subject to the provisions of the Fourth Schedule.

(a) "**Land.**"—This includes any right over land (s. 188 (1), p. 311, *post*) ; but note the special provisions for compensation in respect of rights or easements extinguished contained in s. 46 (3), p. 148, *post*.

(b) "**Compulsorily.**"—Note that the provisions of this section only apply when the land is acquired compulsorily, *i.e.* by virtue of a compulsory purchase order (see ss. 25 (3), 29, 36 and 38 (2)).

(c) "**Acquisition of Land (Assessment of Compensation) Act, 1919.**"—The text of this Act is printed on p. 721, *post*.

(d) "**Clearance area.**"—See s. 25 and notes thereto, p. 95, *ante*.

(e) **Value as a cleared site.**—In some cases the value of the whole of the land comprised in the clearance area as a cleared site may be worth more than the land in its pre-clearance condition. The presence of "island sites" (see note to s. 25, p. 95, *ante*) may have an adverse effect on the value of the area as a whole.

(f) **Proviso to sub-section (2).**—Under s. 25 the following buildings may be included in the clearance area :

- (1) Houses which are unfit for habitation ;
- (2) Houses which are by reason of their bad arrangement or the narrowness or bad arrangement of the streets dangerous or injurious to the health of the inhabitants of the area ;
- (3) "Other buildings" which by reason of their bad arrangement or the narrowness or bad arrangement of the streets are dangerous or injurious to the health of the inhabitants of the area.

If the authority decide to purchase the buildings in the area, Schedule I, paragraph 9 requires them to distinguish classes 2 and 3 above in the compulsory purchase order, and this proviso provides that buildings so distinguished in the order as confirmed by the Minister shall be paid compensation on a basis approaching their market value. It would have seemed much simpler to achieve this result by simply excluding such buildings from the clearance area and limited the buildings which might be included in a clearance area to those which are unfit for human habitation by reason of disrepair or sanitary defects.

It is submitted that this method was not used for the following reasons :

- (1) A local authority received until the passing of the Housing (Temporary Provisions) Act, 1944 (p. 402, *post*), a grant for re-housing purposes only in respect of persons displaced from a clearance area. If such buildings had been removed from the clearance area, the authority would not in the case of houses, have received any grant in respect of re-housing the persons displaced from them ;
- (2) By leaving the definition of a clearance area intact, it was still open to the authority to take into consideration in declaring an area to be a clearance area, the bad arrangement of the houses or other buildings and the narrowness or bad arrangement of the streets.

Subsidies payable under the Housing (Financial and Miscellaneous Provisions) Act, 1946, are not limited to houses provided to meet displacements.

(g) "**Other building.**"—See note to s. 25, p. 95, *ante*. If the whole building is constructed as or used for purposes other than those of a dwelling-house, it must be distinguished in the compulsory purchase order and automatically attracts compensation on the basis of full market value, but the exception to the proviso to sub-s. (2) prevents the benefit of the provision being extended to buildings constructed or adapted as a dwelling-house, part of which is adapted or used for other purposes if the part not used for other purposes is unfit for human habitation by reason of disrepair or sanitary defects. It appears, therefore, that if a building constructed as a dwelling-house is partly used for other purposes, *e.g.* a shop, and the rest of the building is unoccupied, if the unoccupied part is unfit for human habitation, it will not attract compensation on the basis of full market value, but if the whole premises are constructed as *e.g.* a shop or store, compensation will have to be paid on the basis of market value.

(h) **“Constructed or adapted.”**—Note that the mere vacation of such premises is not sufficient to bring them within this proviso. They must be either constructed or adapted in whole or in part for a purpose other than a dwelling, and never to have had or to have completely lost their identity as a dwelling-house.

(i) **Dwelling-house.**—See note (g) to s. 25, p. 98, *ante*, and see note (f), *supra*.

(j) **Section 36.**—*I.e.* for the purposes of re-development in accordance with a re-development plan.

(k) **“Unfit for human habitation and not capable at reasonable expense of being rendered so fit.”**—Under s. 25 a local authority can deal with two or more unfit houses as a clearance area. That section uses the expression “unfit for human habitation” and is silent as to whether the houses can be made fit at reasonable expense. It is remarkable that the same words have not been used in connection with both clearance and re-development areas. In a court of law the fact that the wording is different would be regarded as significant and it would doubtless be held that under s. 25 a local authority could quite properly include houses capable of being made fit at a reasonable expense in a clearance area. It would therefore appear to be more advantageous, in some respects, to proceed under s. 25. A certain amount of additional land outside the clearance area could, as a general rule, be acquired under s. 27, and any other land in the vicinity required for re-housing could be acquired (with the approval of the Minister) under Part V.

(l) **“Fourth Schedule.”**—See p. 334, *post*.

This section also applies to orders made under para. 9 of the Fifth Schedule to the Town and Country Planning Act, 1944. Such orders are in effect clearance orders made in respect of unfit houses comprised in areas in respect of which compulsory purchase orders under ss. 3, 4, or 9 of that Act are contemplated or in an area designated in a declaratory order made under s. 1. Where an authorisation for compulsory purchase under s. 2 of the Acquisition of Land (Authorisation Procedure) Act, 1946, is sought the reduction under this section will not be made unless the order under para. 9 has come into operation. (For the text of the Acquisition of Land (Authorisation Procedure) Act, 1946, see p. 653, *post*.)

41. Obligation of local authority and of the Minister to state reasons for deciding that a building is unfit.—(1) Where a person upon whom notice of a clearance order or of a compulsory purchase order made under this Part of this Act is required to be served has duly made objection thereto on the ground that a building included therein is not unfit for human habitation, and the objection has not been withdrawn, the Minister shall not cause the public local inquiry with respect thereto to be held earlier than the expiration of fourteen days after it has been shown to his satisfaction that the local authority have served upon the objector a notice in writing stating what facts they allege as their principal grounds (a) for being satisfied that the building is so unfit.

(2) Any person who objects to a clearance order on the ground that a building included therein, being a building in which he is interested, is not unfit for human habitation, or who objects on the like ground to a com-

pulsory purchase order made under this Part of this Act, and who appears at the public local inquiry in support of his objection, shall, if the building is included in the order as confirmed as being unfit for human habitation, be entitled, on making a request in writing, to be furnished by the Minister with a statement in writing of his reasons for deciding that the building (b) is so unfit.

NOTES TO SECTION 41

Sub-section (1).—The provision contained in this sub-section was introduced in the Housing Act, 1935, s. 63 (1) ; 28 Halsbury's Statutes 242. Up to the passing of that Act there was no obligation imposed on local authorities to disclose before the inquiry the facts which they alleged as the grounds for being satisfied that the buildings were unfit for human habitation. As a matter of courtesy such facts were often disclosed by the authority to the owner before the inquiry. An obligation is now by the sub-section imposed on the Minister to secure that, when objection is made to the order on the ground that the house is not unfit for human habitation, no inquiry shall be held until the expiration of fourteen days after the local authority have served notice of the principal defects on the owner. It appears that the duty imposed on the Minister is absolute and it is doubtful whether it can be waived by the owner. The requirement applies to :

- (a) Clearance orders under Part III of this Act;
- (b) Compulsory purchase orders under Part III of this Act.

In *R. v. Minister of Health, Ex parte Hack*, [1937] 3 All E. R. 176 ; Digest Supp. and also reported in Times Newspaper, 2nd June, 1937, it was alleged that the notice of defects supplied by the council under this sub-section was insufficient, and that therefore the Minister had no power to hold a public inquiry. The principal grounds were in the following terms :

- (1) " Disrepair : (a) External—walls, roofs ;
(b) Internal—walls, ceilings, floors, woodwork, staircase.
- (2) " Sanitary defects—lack of ventilation, dampness, lack of suitable food storage, inadequate paving or drainage of yards."
- (3) Bad internal arrangement.
- (4) Bad arrangement of site.
- (5) Departure from byelaw conditions.

The Court held that the grounds given by the council were sufficient and discharged a rule *nisi* for a writ of prohibition.

Sub-section (2).—The provision of this sub-section was also introduced by the Housing Act, 1935, s. 63 (2) (28 Halsbury's Statutes 242). The provision will assist owners to decide whether or not sufficient grounds exist for an appeal to the High Court under the Second Schedule. It must be noted that the section does not give owners the right to demand the disclosure of the inspector's report, but only the grounds on which the Minister decided that the house was unfit for human habitation. It was held in *William Denby & Sons v. Minister of Health*, [1936] 1 K. B. 337 ; 100 J. P. 107 ; Digest Supp., following *Local Government Board v. Arlidge*, [1915] A. C. 120 ; 38 Digest 97, 708, that an objector was not entitled to see the inspector's report.

The sub-section applies to buildings included in the following orders :

- (i) a clearance order under Part III of this Act ;
- (ii) a compulsory purchase order under Part III of this Act ;

but only if the following conditions are fulfilled.

- (a) That objection was made to a building being included in either of the above orders on the ground that it was not unfit for human habitation ;

- (b) That the objector appeared at the public inquiry in support of his objection;
- (c) That the building in question was included in the order on the ground that it was unfit for human habitation.

(a) "**Principal grounds.**"—It is submitted that an objector is not under this provision entitled to a detailed report on the property, but he is entitled to hear the principal reasons why his property is included, in sufficient detail to permit him to answer the allegations made against it; but see *R. v. Minister of Health, Ex parte Hack*, p. 139, *ante*.

(b) "**The building.**"—The question has been raised as to whether the obligations of the local authority under this sub-section are discharged by a notice containing a list of defects in respect of a number of houses or whether a separate notice must be served in respect of each building. If the latter was held to be a requirement of the Act an owner who appealed under the Second Schedule would still have to show that he was thereby substantially prejudiced.

42. Payments in respect of well-maintained houses.—(1) Where, as respects a house (a) which is made the subject of a compulsory purchase order under this Part of this Act (b) as being unfit for human habitation, or which is made the subject of a clearance order (c) (being in either case an order made on or after the twentieth day of December, nineteen hundred and thirty-four) (d), the Minister is satisfied, after causing the house to be inspected by an officer of the Ministry of Health (e), that, notwithstanding its sanitary defects, it has been well maintained (f), the Minister may give directions for the making by the local authority of a payment under this section in respect of the house.

(2) A payment under this section shall be of an amount equal either—

- (a) to the amount by which the aggregate expenditure which is shown to the satisfaction of the local authority (g) to have been incurred in maintaining the house (h) during the five years immediately before the date on which the order was made exceeds an amount equal to one and one-quarter times the rateable value of the house; or
- (b) (i) to one and a half times, or, if at that date the house is occupied by an owner thereof (j) and has been owned and occupied by him or by a member of his family (k) continuously during the three years immediately before that date, three times, the rateable value of the house;

whichever is the greater:

Provided that a payment under this section shall not in any case exceed the difference (l) between the full value of the house (that is to say the amount which would have been

payable as compensation if it had been purchased compulsorily but not as being unfit for human habitation) and the site value thereof (that is to say the amount which is payable as compensation by virtue of its being purchased compulsorily as being unfit for human habitation, or which would have been so payable if it had been so purchased), and any question as to such value shall be determined, in default of agreement, as if it had been a question of disputed compensation arising on such a purchase.

(3) A payment under this section shall be made—

- (a) if the house is occupied by an owner thereof, to him; or
- (b) if the house is not so occupied, to the person or persons liable under any enactment (*m*), covenant or agreement to maintain and repair the house, and if more than one person is so liable, in such shares as the authority think equitable in the circumstances:

Provided that, if any other person (*n*) satisfies the local authority that the good maintenance of the house is attributable to a material extent to work carried out by him or at his expense, the local authority may, if it appears to them to be equitable (*o*) in the circumstances, make the payment, in whole or in part, to him.

(4) In this section the expression “rateable value” means in relation to a house the value which, in the valuation list in force at the date on which the order is made, is shown on that date as the rateable value of the house, or, where the net annual value differs from the rateable value, as the net annual value.

NOTES TO SECTION 42

General Note.—This section reproduces, with certain verbal amendments, s. 64 of the Housing Act, 1935 (28 Halsbury's Statutes 243). A house may be included in a clearance area as unfit for human habitation notwithstanding that it is in a good state of repair. It may, for example, be very damp owing to the absence of a damp-proof course and concrete over the site; it may be ill-ventilated owing to faulty design; the height of the rooms may fall much below the normal standard; there may be a total lack of yard space, a lack of readily accessible water supply, sanitary accommodation, etc. Yet despite these sanitary defects, the house may have been well maintained. The object of this section is to secure the payment of compensation in such a case.

As a general rule such compensation will be paid to the landlord, as he will normally be the person liable under enactment, covenant or agreement to maintain and repair the house, but if any other person satisfies the local authority that the good maintenance of the house is attributable to a material extent to work carried out by him at his expense, the local authority may, if it appears to them to be equitable in the circumstances, make the payment, in whole or in part, to him. The section applies to:

- (1) Houses which are the subject of a compulsory order under this part of this Act as being unfit for human habitation;

- (2) Houses which are the subject of a clearance order.
- (3) Houses indicated as unfit and compulsorily acquired for the purposes of a re-development plan.

No provision is made for the payment of compensation under this section in respect of a house which is the subject of a demolition order under s. 11 of this Act.

The compensation provided for by the section is payable in respect of houses within one of the three categories mentioned above only if the Minister is satisfied, after causing the house to be inspected by an officer of the Ministry of Health, that notwithstanding its sanitary defects it has been well maintained.

If the Minister is so satisfied, this compensation is payable by the authority who are responsible for either the clearance of, or purchasing, the house. Such compensation is the greater of the two amounts calculated according to the methods set out in paras. (a) and (b) of sub-s. (2).

(a) "**House.**"—See note (g) to s. 25, p. 98, *ante*, and note (r) to s. 188, p. 317, *post*.

(b) "**This Part of this Act.**"—This includes compulsory purchase of unfit houses in a clearance area or in a re-development area. By sub-para. (4) of para. 9 of the Fifth Schedule to the Town and Country Planning Act, 1944 (p. 661, *post*), the provisions of this section are made applicable to an order under para. 9. The person entitled under the section must make a representation to the Minister of Health within three months of his becoming aware that a notice to treat has been served.

(c) "**Clearance order.**"—See s. 26, p. 103, *ante*.

(d) **December 20, 1934.**—The Minister consulted local authorities before introducing the Bill which resulted in the Act of 1935, and this date was fixed by agreement. Pending the Bill becoming an Act, the Minister had regard to this provision and caused inspectors who held clearance area inquiries in cases where this section applies to make provisional recommendations.

(e) "**After causing the house to be inspected by an officer of the Ministry of Health.**"—The person appointed to hold a local inquiry into a compulsory purchase order under this Part of this Act or into a clearance order will normally be an officer of the Ministry of Health. It is the invariable practice of such officers to inspect the property the subject of the compulsory purchase order or clearance order and they will doubtless have regard to the provisions of this section when they make their inspection, in order to avoid the necessity of a second inspection. Persons who consider themselves entitled to such compensation, even if they do not object to the order, should notify the Minister of their desire to claim compensation for good maintenance. There may be cases where no one objects to the order, in which case the Minister is not bound to hold a local inquiry, but the Minister would seem obliged to send an officer to the area to inspect the houses for the purpose of giving effect to this section and even though no one had claimed compensation for good maintenance. In order, however, to make quite sure that the inspections will be made, and to assist the smooth working of the section, persons who believe that they are entitled to this compensation should claim it within the time limit for lodging objections to the order.

(f) "**Well maintained.**"—The expression is not "maintained" but "well maintained"; later in the proviso to sub-s. (3) the term "good maintenance" is used. The Minister is the sole judge as to whether the house has been "well maintained" or not. He will doubtless endeavour to secure that his inspectors work to a standard. In some cases a landlord may have "well maintained" his house, yet despite this fact, it may appear, superficially at least, to be in a slum condition owing to the habits of the tenants. The Minister's inspectors are experienced men who may safely be relied on to

recognise superficial disrepair and dilapidation on the one hand, and superficial repair, particularly mere decorative repair, on the other. Persons making a claim for compensation under this section, ought, however, to indicate to the Minister the nature of the works of maintenance carried out by them during the previous five years, without giving particulars of the cost, as this does not concern the Minister. It would seem that the question as to whether a particular house has been well maintained can be raised at the local inquiry where one is held.

(g) "**Shown to the satisfaction of the local authority.**"—The local authority must not act arbitrarily. Statutory powers must be exercised "with reasonable regard for the rights of other persons" per COLLINS, L.J., in *Vernon v. St. James, Westminster Vestry* (1880), 16 Ch. D. 449; 38 Digest 43, 251, and see also *Roberts v. Charing Cross, Euston and Hampstead Railway Co.* (1903), 87 L. T. 732; 42 Digest 723, 1423; *Westminster Corporation v. L. & N.W.R.*, [1905] A. C. 426; 42 Digest 724, 1440; *R. v. Denison, Ex parte Nagale* (1916), 115 L. T. 229; 11 Digest 552, 541.

(h) "**Expenditure . . . incurred in maintaining the house.**"—There may be some difficulty in applying this provision. The Act does not define the works which are included in works of maintenance. It would seem that structural additions or conversions should be excluded, but otherwise that, if the intention of Parliament is not to be defeated, the term should be widely construed. It is submitted, for example, that re-roofing instead of merely patching, rebuilding a lavatory or providing a more convenient water supply should come within the term. In order to secure the benefit of this paragraph, owners will undoubtedly have to provide sufficient evidence to satisfy the authority that the amount alleged to have been so spent has, in fact, been spent. They should therefore be able to produce the receipts and the schedule of the works carried out.

(i) **Sub-section (2) (b).**—Note that para. (b) is alternative as well as comparative. If the Minister holds that a house is "well maintained" and the person claiming to be responsible for its good maintenance is not able to prove the amount spent on the property during the preceding five years to the satisfaction of the local authority or, if he proves the amount, but it is less than the sum computed in accordance with the provisions of this paragraph, he will obtain compensation in accordance with the provision of this paragraph. This provision was no doubt designed to give some compensation to the class of owners or owner occupiers who have well maintained their premises, but have kept no record of the work executed or of the cost thereof.

(j) **Owner occupiers.**—Note that these are placed in a specially favourable position by the Act, more especially if they are unable to provide evidence of the amount spent on the property during the preceding five years.

(k) "**A member of his family.**"—This term is not defined by the Act. No doubt it will be construed widely. By the Workmen's Compensation Act, 1925, s. 4 (3) (20 Halsbury's Statutes 598), the expression is defined for the purposes of that Act to mean "wife or husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half brother, half sister."

(l) "**Provided that a payment under this section shall not in any case exceed the difference, etc., etc.**"—This proviso may operate to cut down the compensation computed under paras. (a) and (b). It provides that the compensation payable under paras. (a) or (b) shall not exceed the difference between the site value and the market value of the house. It appears, therefore, that the object of this proviso is to prevent the total sum payable in respect of the house exceeding the market value. In order to obtain the compensation payable under this section when the Minister has declared the house to be well maintained it will be necessary to ascertain the following:

- (1) The difference between the aggregate expenditure incurred in maintaining the house during the five years immediately preceding the

date on which the order was made less one and one-quarter times the rateable value ; and

- (2) One and one-half, or, in the case of an owner occupier, three times, the rateable value ; and
- (3) The site value ; and
- (4) The full value.

Any difference of opinion between the persons entitled to the compensation and the local authority can be decided by the arbitrator as if it was a case of disputed compensation.

(m) "**Enactment.**"—See ss. 2 and 3 of this Act, pp. 48 *et seq.*, *ante*, and Rent and Mortgage Interest (Restrictions) Acts.

(n) "**Any other person.**"—The proviso appears to be intended to give a person, other than persons who come within paras. (a) and (b), who has carried out repairs to state his case to the local authority. If the latter are satisfied that the repairs are to a *material extent* due to him, they may award to him either the whole or a part of the compensation payable. The proviso will no doubt operate principally to give compensation to tenants who have carried out repairs although not under express covenant to do so.

(o) "**To be equitable.**"—Local authorities have a discretion as to the amount of compensation awarded to persons who satisfy them that they come within the proviso. It will enable authorities in awarding compensation to distinguish between superficial decoration and substantial repair.

43. Provisions as to costs of persons opposing orders and as to costs of Minister.—(1) The Minister may make such order as he thinks fit in favour of any owner of any lands included in a clearance order, or in a compulsory purchase order made under this Part of this Act, or in a re-development plan or a new plan, for the allowance of reasonable expenses properly incurred by the owner in opposing the order or the approval of the plan.

(2) All expenses incurred by the Minister in relation to any such order or approval as aforesaid, to such amount as the Minister thinks proper to direct, and all expenses of any person to such amount as may be allowed to him by the Minister in pursuance of the aforesaid power, shall be deemed to be expenses incurred by the local authority under this Part of this Act, and shall be paid to the Minister and to that person respectively in such manner and at such times, and either in one sum or by instalments, as the Minister may order ; and the Minister may order interest to be paid at such rate not exceeding five pounds per cent. per annum as he thinks fit upon any sum for the time being due in respect of such expenses as aforesaid.

(3) Any order made by the Minister in pursuance of this section may be made a rule of the High Court, and be enforced accordingly.

NOTE TO SECTION 43

General Note.—This section reproduces s. 41 of the Act of 1925 as extended by s. 16 (1) of the Act of 1935.

For the right to oppose the confirmation of clearance orders and compulsory purchase orders, see Third and First Schedules respectively. The application for costs is normally reserved until the owner has been notified of the Minister's decision with regard to the order. If the owner is successful in his opposition he should then make a written application for his costs under this section, and give particulars of the costs incurred by him. Normally the Minister does not give costs to a successful objector unless there are special circumstances which entitle the owner to such costs. It is understood that the Minister takes the view that if a successful objector were normally given costs it would be difficult to resist the claim of a successful authority to costs against the objector.

A rule of court is enforced in the same manner as a judgment: see the Judgments Act, 1838, s. 18 (10 Halsbury's Statutes 23). If it is an order for payment of money, it may be enforced like any other judgment against a local authority by *mandamus*.

44. Power of local authority to make allowances to certain persons displaced.—(1) A local authority may pay to any person displaced from a house or other building (*a*) to which a clearance order applies, or which has been purchased by them either under the provisions of this Part of this Act relating to clearance areas or to improvement areas, or as being unfit for human habitation and not capable at reasonable expense of being rendered so fit (*b*), such reasonable allowance as they think fit towards his expenses in removing, and to any person carrying on any trade or business in any such house or other building, they may pay also such reasonable allowance as they think fit towards the loss which, in their opinion, he will sustain by reason of the disturbance of his trade or business consequent on his having to quit the house or building, and in estimating that loss they shall (*c*) have regard to the period for which the premises occupied by him might reasonably have been expected to be available for the purpose of his trade or business and the availability of other premises suitable for that purpose.

(2) Where, as a result of action taken by a local authority under the provisions of this Part of this Act relating to clearance areas or to improvement areas, the population of the locality is materially decreased, they may pay to any person carrying on a retail shop (*d*) in the locality such reasonable allowance as they think fit towards any loss involving personal hardship which, in their opinion, he will thereby sustain, but in estimating any such loss they shall have regard to the probable future development of the locality.

NOTES TO SECTION 44

General Note.—This section reproduces s. 41 of the Act of 1930 as amended by s. 88 of the Act of 1935.

Sub-section (1) gives to the local authorities the power to pay certain allowances. They may be in respect of two things:

- (a) the expenses of removing from premises to which a clearance order, a compulsory purchase order made under the provisions of this Part of this Act relating to clearance areas, or improvement areas or as being unfit for human habitation and not capable at reasonable expense of being rendered so fit applies;
- (b) the loss by reason of disturbance of trade consequent on having to remove from premises included in any such house as is mentioned in (a) above.

In estimating (b) in those cases where they choose to make allowances, they must have regard to the period for which the premises occupied might reasonably have been expected to be available for the purposes of his trade or business and the availability of other premises suitable for that purpose.

Sub-section (2) gives power to local authorities to pay to retail shopkeepers, who will in the opinion of the authority suffer loss by reason of the population of the locality being decreased by reason of action taken by the authority under the provisions of this Part of the Act relating to clearance areas or to improvement areas, a reasonable allowance to cover the loss which they will as a result of such action sustain.

For provisions similar to those contained in sub-s. (1) applicable to persons displaced by reason of demolition orders or closing orders, see s. 18, p. 87, *ante*.

(a) "**Other building.**"—Shops, offices and warehouses would be included. Land on which no buildings stand may be valuable for trade purposes, but the section gives no power to make allowances in respect of such land.

(b) "**Not capable at reasonable expense of being rendered so fit.**"—*I.e.* houses purchased solely for the purpose of carrying out a re-development scheme, but no such payment can be made in respect of premises other than those mentioned above for the purposes of a re-development scheme.

(c) "**Shall.**"—This was inserted by the standing committee which considered the 1930 Bill. As noted above, it imposes an obligation when the local authority have decided to make such an allowance. But it clearly imposes no obligation to make any allowance.

(d) "**Retail shop.**"—As the power to make payments is entirely discretionary, little or no obligation is likely to arise under this sub-section, and any discussion as to what is or what is not a retail shop would be likely to be purely academic.

45. Obligations of local authority with respect to re-housing.—(1) A local authority who have passed a resolution declaring any area to be a clearance area or an improvement area shall, before taking any action under that resolution which will necessitate the displacement of any persons of the working classes, undertake to carry out (a) or to secure the carrying out (b) of such re-housing operations, if any, within such period as the Minister may consider to be reasonably necessary.

(2) In so far as suitable accommodation is not available for persons who will be displaced from working-class houses in the carrying out of re-development in accordance with a re-development plan, it shall be the duty of the local authority to provide, or to secure the provision of, such

accommodation in advance of the displacements from time to time becoming necessary as the re-development proceeds.

NOTE TO SECTION 45

Sub-section (1) of this section reproduces s. 9 of the Act of 1930 and sub-s. (2) reproduces s. 18 of the Act of 1935.

Sub-section (1).—In the absence of any definite requirement by the Minister as to re-housing it would seem that there is no legal obligation to re-house persons who will be displaced from clearance or improvement areas. Practical considerations, however, will oblige local authorities to offer the majority if not all of the persons who will be displaced alternative accommodation in the dwellings for which the exchequer grant will be received. It will be advisable to make any such offer in writing, stating the rent proposed to be charged, and specifying a time within which the accommodation must be accepted.

There is no obligation on the authority to provide alternative accommodation for business purposes: see *Re Gateshead County Borough (Barn Close) Clearance Order, 1931*, [1933] 1 K. B. 429; 97 J. P. 1; Digest Supp. As to the standard of accommodation which must be observed by local authorities in carrying out re-housing schemes, see s. 136, p. 269, *post*.

Sub-section (2).—Note the difference in wording between this sub-section and the preceding sub-section. The obligation to re-house persons of the working classes displaced in re-development operations appears to be absolute and not dependent on any requirements of the Minister. The obligation, however, only extends to persons displaced from working-class houses.

(a) **"To carry out."**—The power to carry out housing operations is contained in Part V of the Act.

(b) **"Secure the carrying out."**—For example, by making arrangements with a housing association under s. 94 (p. 224, *post*), or by advancing money or guaranteeing loans for the erection of houses under s. 91, p. 217, *post*.

46. Extinguishment of ways, easements, &c., over land purchased under Part III.—(1) A local authority may, with the approval of the Minister, by order (a) extinguish any public right of way over any land purchased by them (b) under this Part of this Act, (c) but an order made by an authority under this subsection shall be published in the prescribed manner, (d) and if any objection thereto is made to the Minister before the expiration of six weeks from the publication thereof, the Minister shall not approve the order until he has caused a public local inquiry (e) to be held into the matter.

(2) Where a local authority have resolved to purchase under this Part of this Act land over which a public right of way exists, it shall be lawful under the foregoing subsection for the authority to make and the Minister to approve, in advance of the purchase, an order extinguishing that right as from the date on which the buildings on the land are vacated, or at the expiration of such period after that date as may be specified in the order, or as the Minister in approving the order may direct.

(3) Upon the completion by a local authority of the purchase by them of any land under this Part of this Act, all private rights of way and all rights of laying down, erecting, continuing, or maintaining any apparatus on, under or over that land and all other rights or easements (*f*) in or relating to that land shall be extinguished and any such apparatus shall vest in the local authority, and any person who suffers loss by the extinguishment or vesting of any such right or apparatus as aforesaid shall be entitled to be paid by the local authority compensation (*g*) to be determined under and in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919 :

Provided that this subsection shall not apply to any right vested in statutory undertakers of laying down, erecting, continuing or maintaining any apparatus, or to any apparatus belonging to statutory undertakers, and shall have effect as respects other matters subject to any agreement which may be made between the local authority and the person in or to whom the right or apparatus in question is vested or belongs.

NOTES TO SECTION 46

General Note.—Subsections (1) and (2) reproduce s. 13 (1) of the Act of 1930 as amended by s. 81 of the Act of 1935, sub-s. (3) reproduces s. 91 (7) of the Act of 1935.

Sub-section (1) provides that a local authority may with the approval of the Minister by order extinguish any public right of way over any land purchased by them under this part of this Act, but an order made by an authority under this sub-section must be published in the prescribed manner, and if any objection thereto is made to the Minister before the expiration of six weeks from the publication thereof, the Minister cannot approve the order until he has caused a public local inquiry to be held into the matter.

By sub-s. (2) the local authority are empowered to make and the Minister to approve in advance of the purchase an order extinguishing such public right of way as from the date on which the buildings on the land are vacated, or at the expiration of such period after that date as may be specified in the order, or as the Minister in approving the order may direct. A local authority can therefore make an order extinguishing a public right of way at the same time as they make the compulsory purchase order and the Minister can, if he desires to do so, hold one local inquiry into the two questions, viz. the extinguishment of the public right of way and the confirmation of the compulsory purchase order.

Private rights of way and other easements are dealt with by sub-s. (3). These are automatically extinguished upon completion by the local authority of the purchase of the land. Compensation is payable to any person suffering loss by the extinguishment of the easement on the basis laid down by the Acquisition of Land (Assessment of Compensation) Act, 1919 ; 2 Halsbury's Statutes 1176. See S. R. & O., 1937, No. 79, p. 545, *post*. As to a similar provision of general application in relation to the extinction of non-vehicular rights of way, see s. 3 of the Acquisition of Land (Authorisation Procedure) Act, 1946, p. 653, *post*. See also ss. 22 to 25 of the Town and Country Planning Act, 1944 (Hill's Town and Country Planning, 3rd Edition, pp. 286 *et seq.*).

(a) **Order.**—The provisions of the Second Schedule do not apply to an order under this section.

(b) **“Land purchased by them.”**—Local authorities should take care to purchase the sites of all streets which it is desired to extinguish, for it is only public rights of way over land purchased by the local authority which can be extinguished under this section.

(c) **“Under this part of this Act.”**—*I.e.* land purchased for clearance, improvement or re-development.

(d) **“Prescribed manner.”**—See s. 176, p. 302, and S. R. & O., 1937, No. 79, p. 545, *post*.

(e) **“Public local inquiry.”**—See ss. 178 and 186, pp. 304, 310, *post*.

(f) **“All other rights or easements.”**—Under the corresponding provision of 38 & 39 Vict., c. 36, s. 20, it was held that that section applied to ancient lights in buildings adjoining the lands purchased and that the loss of the right to light was matter for compensation by the authority: *Badham v. Marris* (1881), 52 L. J. (Ch.) 237, n.; 11 Digest 293, 2215. That decision was followed in *Swainston v. Finn and Metropolitan Board of Works* (1883), 48 L. T. 634; 11 Digest 293, 2217, where it was held that the effect of the section was that upon purchase of land under the Act, all easements whatsoever affecting the land became extinguished, but that the authority must pay compensation to persons injured as provided by the section. In that case the authority had taken a house for the purpose of an improvement scheme. The plaintiffs, the owners of an adjoining building, claimed to be entitled to a right to support from the house taken by the authority, and brought an action to restrain the authority from removing the house in such a way as to interfere with such right. It was held that the only right the plaintiffs could have was to receive compensation under the section. In a later case it was again held that the section applied to an easement of light and that it included cases where a right or easement was in process of being acquired by enjoyment under the Prescription Act at the date of the purchase of the land, and had the effect of extinguishing such inchoate rights, as well as rights or easements already acquired over the land and, therefore, the owner of a house to which there had been access of light over land purchased under the Act for a period of ten years before and ten years after the purchase, did not gain an easement of light under the Prescription Act by reason of such twenty years' enjoyment, as any benefit due for the first ten years' user had been swept away. All the members of the Court expressed the opinion that the owner would be entitled to compensation: *Barlow v. Ross*, (1890), 24 Q. B. D. 381, C. A.; 11 Digest 293, 2216.

(g) **Measure of compensation.**—The measure of compensation would appear to be the difference in value of the premises (*i.e.* the dominant tenement) with the right or easement and the value without it, determined in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919, p. 721, *post*.

47. Provisions as to licensed premises purchased under Part III.—Where land purchased by a local authority under this Part of this Act comprises premises in respect of which an old on-licence is in force, the following provisions shall have effect—

(a) the authority, before purchasing the premises, may undertake that in the event of the renewal of the licence being refused, they will pay to the compensation authority towards the compensation payable on such refusal under the Licensing (Consolidation)

Act, 1910, such contribution as may be specified in the undertaking, and any sum payable by the authority in pursuance of such undertaking shall be treated as part of their expenses in purchasing the land;

- (b) if, after purchasing or contracting to purchase the premises, the authority intimate to the licensing justices that they are willing to surrender the licence, the licensing justices may refer the matter to the compensation authority, and that authority, on being satisfied that the licence, if not surrendered, might properly have been dealt with as a redundant licence, shall contribute out of the compensation fund towards the compensation paid by the local authority in respect of the purchase of the premises a sum not exceeding the compensation which would have been payable under the Licensing (Consolidation) Act, 1910, on the refusal of the renewal of the licence.

NOTES TO SECTION 47

General Note.—This section has no application in such licensing districts as are declared to be licensing planning areas, except as to licences which have already been referred to the compensation authority at the time of the making of the order declaring the order to be a licensing planning area (Licensing Planning (Temporary Provisions) Act, 1945, s. 8 (2); 38 Halsbury's Statutes 284). The section provides alternative methods for dealing with the licence by the purchasing authority:

- (a) The first method contemplates arrangements for extinguishing the licence subject to compensation *before* the premises are purchased. In such a case the purchasing authority may enter into a prearrangement with licensing justices that renewal shall be referred to the compensation authority; an arrangement of this nature was approved in the House of Lords in *Leeds Corporation v. Ryder*, [1907] A. C. 420; 71 J. P. 484; 30 Digest 42, 328. As part of such an arrangement, the purchasing authority may undertake to make a contribution in respect of the compensation awarded.
- (b) The second method contemplates arrangements for extinguishing the licence subject to compensation *after* the purchase of the premises. In such a case (as in *Leeds Corporation v. Ryder*, *supra*) the purchasing authority will have become the owners of the old on-licensed premises, purchased as such with an appurtenant right to receive compensation if the licence is extinguished on grounds of redundancy. Para. (b) of the section entitles the purchasing authority, in a proper case, to be reimbursed money paid on the acquisition of an old on licence. As to licensed premises not included in this section, see *Northwood v. London County Council*, [1926] 2 K. K. 411; 90 J. P. 128.

A local authority who acquire licensed premises do not thereby acquire the licence, but by stepping into the shoes of the owners of the premises they would be able to get the licence extinguished if they wished:

- (a) *Under Housing Act, 1936, s. 47 (a).*—Licence is extinguished before purchase. Local authority will pay unlicensed value for the premises; compensation in respect of the licence payable from compensation fund to persons interested in the licence. This does not

apply to premises in a licensing planning area, see *infra*. Local authority may be required to make contributions to the fund.

- (b) *Under Housing Act, 1935, s. 47 (b).*—Licence extinguished after purchase. Local authority will pay licensed value for the premises; compensation in respect of the licence payable to local authority from compensation fund: where licence might have been dealt with as redundant licence. This does not apply where premises are situated in a licensing planning area, see *infra*.
- (c) *Licensing Planning (Temporary Provisions) Act, 1945.*—Where premises are in a licensing planning area and licence is extinguished, s. 47 of the Housing Act, 1936, shall not apply. No compensation payable in respect of licensed value of the premises; no compensation will be payable from the fund: but renewal of old on-licence in licensing planning area can only be refused on the grounds set out in Part II of the Second Schedule to the Licensing (Consolidation) Act, 1910.
- (a) *Finance Act, 1946, s. 12, and First Schedule.*—Where licence in suspense is extinguished no compensation will be payable in respect of licensed value of premises; compensation will be payable in respect of the licence from compensation fund unless premises are in a licensing planning area.

It is impossible in this note to deal comprehensively with this very complex question, but the above summary may prove helpful when reference is made to the statutory provisions mentioned therein.

48. Clearance and improvement areas in London (power to construct streets).—The London County Council may, on any land purchased by them in connection with a clearance area or improvement area, lay out and construct and sewer such new streets and such widenings and improvements of existing streets as they think fit, and all new streets and new parts of streets so constructed by them shall, when completed, become repairable by the council of the metropolitan borough.

NOTE TO SECTION 48

This section reproduces s. 16 (6) of the Act of 1930. Metropolitan boroughs are the highway authorities in London. See Metropolitan Management Act, 1855, s. 96 (11 Halsbury's Statutes 907).

49. Provisions as to apparatus of statutory undertakers in land dealt with by local authority under the Housing Acts.—(1) Where the removal or alteration of apparatus (a) belonging to statutory undertakers (b) on, under, or over land purchased by a local authority under this Part of this Act, or on, under, or over a street (c) running over, or through, or adjoining any such land, is reasonably necessary for the purpose of enabling the authority to exercise any of the powers conferred upon them by the foregoing provisions of this Part of this Act, the local authority shall have power (d) to execute works for the removal or alteration of the apparatus subject to and in accordance with the provisions of this section.

(2) A local authority who intend to remove or alter any apparatus under the powers conferred by the foregoing subsection shall serve (e) on the undertakers notice in writing (f) of their intention with particulars of the proposed works and of the manner in which they are to be executed, and plans and sections thereof, and shall not commence any works until the expiration of a period of twenty-eight days from the date of service of the notice, and the undertakers may within that period by notice in writing served on the authority (g)—

- (a) object to the execution of the works or any of them on the ground that they are not necessary for the purpose aforesaid ; or
- (b) state requirements (h) to which, in their opinion, effect ought to be given as to the manner of, or the observance of conditions in, the execution of the works, as to the execution of other works for the protection of other apparatus belonging to the undertakers or as to the execution of other works for the provision of substituted apparatus whether permanent or temporary ;

and—

- (i) if objection is so made to any works and not withdrawn, the local authority shall not execute the works unless they are determined by arbitration (i) to be so necessary ;
- (ii) if any such requirement as aforesaid is so made and not withdrawn, the local authority shall give effect thereto unless it is determined by arbitration to be unreasonable.

(3) A local authority shall make to statutory undertakers reasonable compensation (j) for any damage which is sustained by them by reason of the execution by the authority of any works under subsection (1) of this section and which is not made good by the provision of substituted apparatus. Any question as to the right of undertakers to recover compensation under this subsection or as to the amount thereof shall be determined by arbitration.

(4) Where the removal or alteration of apparatus belonging to statutory undertakers, or the execution of works for the provision of substituted apparatus, whether permanent or temporary, is reasonably necessary for the purposes of their undertaking by reason of the stopping up, diversion, or alteration of the level or width of a street by a local authority under powers exercisable by virtue of this Act, they may, by notice in writing served on the

authority require them at the expense of the authority to remove or alter the apparatus or to execute the works, and where any such requirement is so made and not withdrawn, the local authority shall give effect thereto unless they serve notice in writing on the undertakers of their objection to the requirement within twenty-eight days from the date of service of the notice upon them and the requirement is determined by arbitration to be unreasonable.

(5) At least seven days before commencing any works which they are authorised or required under the foregoing provisions of this section to execute, the local authority shall, except in case of emergency, serve on the undertakers notice in writing of their intention so to do, and the works shall be executed by the authority under the superintendence (at the expense of the authority) and to the reasonable satisfaction of the undertakers:

Provided that, if within seven days from the date of service on them of notice under this subsection the undertakers so elect, they shall themselves execute the works in accordance with the reasonable directions and to the reasonable satisfaction of the authority, and the reasonable costs thereof shall be repaid to the undertakers by the authority.

(6) Any difference arising between statutory undertakers and a local authority under the last foregoing subsection and any matter which is by virtue of the foregoing provisions of this section to be determined by arbitration shall—

(a) in the case of a question arising under subsection (3) of this section, unless the authority and the undertakers otherwise agree, be referred to and determined by an official arbitrator (*k*) appointed under the Acquisition of Land (Assessment of Compensation) Act, 1919 (*l*), who shall have the like powers in respect of procedure, costs, and the statement of special cases as he has under that Act;

(b) in any other case, be referred to and determined by an arbitrator to be appointed, in default of agreement, by the Minister.

(7) In this section references to the alteration of apparatus include references to diversion and to alterations of position or level.

NOTES TO SECTION 49

This section reproduces s. 91, sub-ss. (1) to (6) and (8) of the Act of 1935.

Summary of rights of statutory undertakers under this section—

- (1) Right to object to proposed works on the ground that they are not necessary.

- (2) Right to state requirements regarding the execution of the works, etc.
- (3) Right to compensation for any damage suffered which is not made good by the provision of substituted apparatus.
- (4) Right to require the removal or alteration of apparatus or the execution of works for the provision of substituted apparatus necessitated by the stopping up or diversion or alteration of the level or width of a street.

This section should be compared with s. 25 of the Town and Country Planning Act, 1944. In the Act of 1944 Special Parliamentary Procedure is substituted for the arbitration procedure of sub-s. (6). (See Hill's Town and Country Planning, 3rd Edition, p. 291.)

(a) "**Apparatus.**"—See s. 188 (1), p. 311, *post*.

(b) "**Statutory undertakers.**"—See s. 188 (1), p. 311, *post*.

(c) "**Street.**"—See definition in s. 188 (1).

(d) "**Shall have power.**"—That is, subject to the provisions of this section. The local authority must comply strictly with the terms of this section.

(e) "**Shall serve.**"—See s. 167, p. 293, *post*.

(f) "**Notice in writing.**"—This notice must be signed by the local authority's clerk or his lawful deputy (see s. 164, p. 292, *post*).

The notice must

- (1) state the local authority's intention ;
- (2) give or be accompanied by particulars of the proposed works and the manner in which they are to be executed ;
- (3) be accompanied by plans and sections of the proposed works.

(g) "**Served on the authority.**"—See s. 166, p. 293, *post*.

(h) "**Requirements.**"—These must relate to—

- (i) the manner of the execution of the works,
- (ii) observance of conditions in the execution of the works,
- (iii) the execution of other works for the protection of other apparatus belonging to the undertakers,
- (iv) the execution of other works for the provision of substituted apparatus either temporary or permanent.

(i) "**By arbitration.**"—See sub-s. (6).

(j) "**Compensation.**"—Compensation is to be paid for "any damage" which is sustained by the statutory undertakers by reason of the execution by the authority of any works under sub-s. (1) of this section which is not made good by the provision of substituted apparatus. The language of the text is general and would appear to cover almost every kind of loss caused by the execution of the works, though it applies only to such damages arising out of the execution of works authorised by this Act. If the local authority execute the works in a negligent manner and by reason of their negligence cause damage, an action would lie: *Canadian Pacific Railway Co. v. Roy*, [1902] A. C. 220; 38 Digest 27, 142; *Ash v. G.N., Piccadilly and Brompton Railway Co.* (1903), 67 J. P. 417; 38 Digest 46, 274; *Roberts v. Charing Cross, etc. Railway Co.* (1903), 87 L. T. 732; 42 Digest 723, 1423; *Howard-Flanders v. Maldon Corporation* (1926), 90 J. P. 97; Digest Supp. Where a public body, in answer to a claim for compensation, pleaded that the damage was due to its contractor's negligence, and that, therefore, a claim for compensation was not the proper remedy, it was held that the onus was on the public body to prove such negligence (*St. James and Pall Mall Electric Light Co. v. R.* (1904), 68 J. P. 288; 38 Digest 51, 294).

Note that the arbitrator will decide any question as to the right to compensation as well as the amount. The Arbitration Acts, 1889 to 1934 (1, 27 Halsbury's Statutes 453, 27), will apply to the arbitration, and under these Acts the arbitrator may, and shall, if so directed by the Court or a judge, state in the form of a special case for the opinion of the Court any ques-

tion of law arising in the course of the reference, or the arbitrator may state his award in the form of a special case.

(k) "**Official arbitrator.**"—For form of application for the selection of an official arbitrator, see p. 757, *post*.

(l) "**Acquisition of Land (Assessment of Compensation) Act, 1919.**"—For text of this Act see p. 721, *post*.

Re-development and Re-conditioning by Owners.

50. Re-development by owners.—(1) Any persons (a) proposing to undertake the re-development of land may submit particulars of their proposals (b) to the local authority, who shall consider the proposals (c) and, if they appear to the authority to be satisfactory, shall give to the persons by whom they were submitted notice to that effect, specifying times within which the several parts of the re-development are to be carried out, and if and so long as the re-development is being proceeded with in accordance with the proposals and within the specified time limits, subject to any variation or extension approved by the authority, no action shall be taken (d) in relation to the land under any of the powers conferred by Part II, or the foregoing provisions of this Part, of this Act.

(2) Where the local authority are satisfied that, for the purpose of enabling re-development to be carried out in accordance with the proposals which have been submitted as aforesaid and in respect of which the authority have given notice of their satisfaction, it is necessary that any dwelling-house to which the Rent and Mortgage Interest Restrictions Acts, 1920 to 1933, apply, should be vacated, and that suitable alternative accommodation within the meaning of Part IV of this Act is available for the tenant or will be available for him at a future date, the authority may issue to the landlord a certificate that such suitable alternative accommodation (e) is available for the tenant or will be available for him by that future date, and a certificate (f) so issued shall, for the purposes of the Rent and Mortgage Interest Restrictions (Amendment) Act, 1933, have the like effect as if it had been such a certificate as is mentioned in subsection (2) of section three of that Act (g) with respect to accommodation to be provided forthwith or on that future date, as the case may be.

NOTES TO SECTION 50

This section reproduces s. 54 of the Act of 1935.

General Note.—This section provides—

- (1) that any persons proposing to undertake the re-development of land may submit particulars of their proposals to the local authority;

- (2) that the local authority shall consider any such proposals and if they appear to them to be satisfactory, shall give the persons by whom they were submitted notice to that effect and specify times within which the several parts of the re-development are to be carried out;
- (3) that if and so long as the re-development is being proceeded with in accordance with the proposals and within the specified time limits (subject to any variation or extension afforded by the authority) no action shall be taken under Part II or Part III of this Act;
- (4) that where the local authority are satisfied—
 - (a) that for the purpose of enabling any re-development to be carried out in accordance with the proposals it is necessary that any controlled dwelling-house should be vacated, and
 - (b) that suitable alternative accommodation within the meaning of s. 68 of this Act is available for the tenant or will be available for him at a future date,
 the authority may issue to the landlord a certificate that such suitable alternative accommodation is or will be available;
- (5) that any such certificate shall have the like effect as if it had been such a certificate as is mentioned in sub-s. (2) of s. 3 of the Rent and Mortgage Interest Restrictions (Amendment) Act, 1933, with respect to accommodation to be provided forthwith or on that future date, as the case may be.

The two advantages to be gained by a person submitting proposals under this section are therefore—

- (1) immunity from action by the local authority under the Housing Act so long as the re-development is being proceeded with in a satisfactory manner;
- (2) facilities for obtaining possession of controlled premises.

In connection with this section, note that—

- (1) Any persons *may* submit proposals.
- (2) The local authority *must* consider any such proposals if submitted to them.
- (3) The local authority *must* give the notice mentioned in sub-s. (1) *if they are satisfied* that the proposals appear to them to be satisfactory.
- (4) That the giving of the certificate under sub-s. (2) is entirely discretionary—"The authority *may* issue . . ."

Note that by s. 52, p. 157, *post*, the provisions of this section shall not have effect in the case of premises comprised in a clearance order or compulsory purchase order relating to clearance areas or to improvement areas confirmed by the Minister under this Part of this Act or in the case of premises comprised in a re-development plan approved by him, or in the case of premises comprised in a demolition order which has become operative.

(a) "**Any persons.**"—Persons submitting their proposals should inform the local authority of the nature of their interest in the land which they propose to re-develop, so that the authority may be made aware that their interest is such as to enable them to carry out the proposals.

(b) "**Particulars of their proposals.**"—The best way to submit these proposals will probably be to prepare a complete set of plans showing the exact nature of the proposed re-development and to accompany the plans with an explanatory memorandum. If it is proposed to execute the re-development in parts, the memorandum should state the times within which it is proposed to carry out the several parts of the re-development. Steps should be taken to see that the proposals comply with the requirements of the general law, local enactments, town planning schemes, and byelaws in force within the district. Permission of the interim development authority for the area should also be sought. Local authorities who are also the town planning authority will doubtless consider any re-development proposals submitted to them from the town planning as well as the housing aspect.

(c) **No appeal against local authority's decision.**—If a local authority take the view that proposals submitted to them are not satisfactory, no appeal lies against their decision. When the 1935 Bill was before the Standing Committee of the House of Commons an attempt was made to secure an appeal to the Minister of Health, but after the Minister had made the following statement the amendment was withdrawn :

"What I have said previously, as regards the relations between would-be developing owners and local authorities has, I think, indicated that on behalf of the Government I accept the view that where an owner himself desires to develop property, he should not be prevented from doing so, if his proposals are well designed, by any merely arbitrary or oppressive refusal on the part of the local authority. I think that is what my hon. Friends desire to secure and that is what I also desire to secure. What I have said before and what is even more strictly relevant now than it was on previous occasions, is that under the Bill the local authority will make its proposals for development. It matters not in what order the proposals are made. That being so, the local authority has to come to the Minister for a compulsory purchase order to enable it to carry out its own proposals. On the occasion of that compulsory purchase order, if there is any opposition to the proposals of the local authority, the Minister must order a public local inquiry—and, of course, if the owners have their alternative proposal there is opposition to the proposal of the local authority. The opportunity then for making their proposals known to the Minister and for enforcing them by that most satisfactory procedure, a public local inquiry, is available to the owners and the Minister has to decide between the owners and the local authority. That, I think, is the safeguard which my hon. Friends seek and I assure them that it is secured by the Bill."

(d) **"No action shall be taken."**—It would appear that where such re-development has been sanctioned any action under the Housing Act could be restrained by injunction without joining the Attorney-General (*Boyce v. Paddington Borough Council*, [1903] 1 Ch. 109; 16 Digest 488, 3701) alternatively an owner could seek a writ of prohibition (*R. v. Minister of Health, Ex parte Davis*, [1929] 1 K. B. 619; Digest Supp.; *R. v. Electricity Commissioners, Ex parte London Electricity Joint Committee Co. (1920), Ltd.*, [1924] 1 K. B. 171; Digest Supp.; *R. v. Minister of Health, ex parte Villiers*, [1936] 2 K. B. 29; [1936] 1 All E. R. 817; Digest Supp.).

(e) **"Suitable alternative accommodation."**—See s. 68, p. 184 *post*.

(f) **"Certificate."**—By s. 165 of this Act (p. 292, *post*), it is provided that any document purporting to be a certificate of a local authority named therein issued for any of the purposes of this Act and to be signed by the clerk to that authority shall be received in evidence and be deemed to be such a certificate without further proof unless the contrary is shown. For form of this certificate, see S. R. & O., 1937, No. 80, Form H, p. 552, *post*.

(g) **Rent and Mortgage Interest Restrictions (Amendment) Act, 1933, s. 3 (2)** (26 Halsbury's Statutes 271).—This provides as follows—

"A certificate of the housing authority for the area in which the said dwelling-house is situated, certifying that the authority will provide suitable alternative accommodation for the tenant by a date specified in the certificate, shall be conclusive evidence that suitable alternative accommodation will be available for him by that date."

51. Certificates as to the condition of houses.—

—(1) Any owner (a) of a house, (b) which is occupied or of a type suitable for occupation, by persons of the working classes (c) and in respect of which works of improve-

ment (*d*) (otherwise than by way of decoration or repair) or structural alteration are proposed to be executed, may submit a list of the proposed works to the local authority with a request in writing that the authority shall inform him whether in their opinion the house would, after the execution of those works, or of those works together with any additional works, be in all respects fit for human habitation and would, with reasonable care and maintenance, remain so fit for a period of at least five years.

(2) As soon as may be after receipt of such a list and request as aforesaid the local authority shall take the list into consideration (*e*) and shall inform the owner whether they are of opinion as aforesaid or not, and in a case where they are of that opinion, shall furnish him with a list of the additional works (if any) appearing to them to be required.

(3) Where the local authority have stated that they are of opinion as aforesaid and the works specified in the list submitted to them, together with any additional works specified in a list furnished by them, have been executed to their satisfaction, they shall, on the application of any owner of the house, and upon payment by him of a fee of one shilling, issue to him a certificate (*f*) that the house is fit for human habitation and will with reasonable care and maintenance remain so fit for a period (being a period of not less than five nor more than ten years) to be specified in the certificate.

(4) During the period specified in a certificate given under this section, no action shall be taken under the provisions of this Part of this Act relating to clearance areas or to improvement areas with a view to the demolition of the house as being unfit for human habitation, or under section eleven or twelve of this Act.

(5) In this section the expression "improvement" includes the provision of additional or improved fixtures or fittings.

NOTES TO SECTION 51

This section reproduces s. 55 of the Act of 1935.

General Note.—This section provides—

- (1) That any owner of a working class house may submit a list of works of improvement or structural alteration to the local authority together with a request in writing that the authority will inform him whether in their opinion, the house would, after the execution of those works or of those works together with any additional works, be in all respects fit for human habitation and would with reasonable care and maintenance remain so fit for a period of at least five years;

- (2) That the local authority shall consider any such list submitted as aforesaid ;
- (3) That the local authority shall inform the owner whether they are of opinion as aforesaid or not. If they are not of such opinion that is the end of the matter ; if they are of such opinion then they must furnish the owner with a list of additional works (if any) appearing to them to be required ;
- (4) That where a local authority have expressed such opinion as aforesaid and the owner has executed the works specified in his own list, together with the works (if any) specified in a list furnished to him by the authority, to their satisfaction, the authority must
on application of the owner of the house and upon payment of a fee of one shilling
furnish a certificate
that the house is in all respects fit for human habitation and will with reasonable care and maintenance remain so fit for a period (not less than five years nor more than ten years) to be specified in the certificate ;
- (5) That during the period specified in the certificate the local authority will not be able to include the house in a clearance area as being unfit for human habitation or to take any action under the provisions relating to improvement areas or make a demolition order under s. 11 of this Act, or a closing order under s. 12 of this Act ;
- (6) That the term "improvement" includes the provision of additional or improved fixtures or fittings.

Note that the provisions of this section shall not have effect in the case of premises comprised in a clearance order or compulsory purchase order relating to clearance areas or improvement areas confirmed by the Minister under this part of this Act, or in the case of premises comprised in a re-development plan approved by him or in the case of premises comprised in a demolition order which has become operative.

There is no appeal from the opinion of the local authority. In Committee of the House of Commons it was sought to amend the section by giving such a right of appeal but the Minister resisted on the ground that it was unnecessary and the amendment was withdrawn. The Minister said in the course of his speech : " Under this clause the owner applies for a certificate that the works will make his house fit. My honourable friend contemplates conditions under which the local authority refuses that certificate, and he says, ' What protection is there for the owner ? ' The protection is this—supposing the certificate is refused, what has the owner to fear ? The owner has to fear the enforcement against him by the local authority of their view that the house is unfit. They can only do that and take action to enforce that view under ss. 19 and 20 of the Act of 1930 (now ss. 11 and 12 of this Act) which deal with individual houses, and if they do that the owner has his right of recourse to the county court and his appeal against the decision of the local authority."

(a) "**Any owner.**"—The term "owner" is by s. 188 (1) defined to mean

" a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the building or land, whether in possession or in reversion, and also includes a person holding or entitled to the rents and profits of the building or land under a lease or agreement the unexpired term whereof exceeds three years."

So that there may be, and often will be, more than one owner of the same dwelling-house and hence the use of the expression " any owner."

(b) "**House.**"—The term "house" is not defined by this Act for the purposes of this section. In view of the reference to closing orders in sub-s. 4, it is obvious that the term includes

" any part of a building which is occupied, or is of a type suitable for occupation as a separate dwelling." See also note (r) to s. 188 (1), p. 317, *post*.

(c) "**Working classes.**"—The meaning of this term is discussed in note (f) to s. 6, p. 57, *ante*.

(d) "**Works of improvement.**"—The object of this section is to give owners an opportunity of proposing works of improvement or structural alteration (as distinct from works of repair or decoration) with a view to saving from demolition a house which might otherwise be condemned under s. 11 of this Act. If the house merely requires repair, this section is not applicable.

The following cases decided under the law of landlord and tenant afford some indication of the distinction between works of improvement and works of repair.

If a floor has become rotten and worn out, the laying of a new floor could be enforced under a covenant to repair (*Proudfoot v. Hart* (1890), 25 Q. B. D. 42; 31 Digest 328, 4707). But the laying of a new floor of a different kind or on an improved plan could not be enforced under a covenant to repair (*Soward v. Leggatt* (1836), 7 C. & P. 613, N. P.; 31 Digest 330, 4733; and *Proudfoot v. Hart, supra*).

Under a lessee's covenant in the lease of a house to well and substantially repair and keep in thorough repair and good condition the demised premises and in such repair and condition to deliver them up at the end of the term the lessee is bound to renew a building or any subsidiary part of the premises which is past ordinary repair. Where, therefore, the front wall of the demised premises consisting of an old house had by natural decay at the end of the term fallen into such a state that it has been condemned as a dangerous structure, it was held that the lessee was liable under his covenant to pull down and rebuild the same (*Lurcott v. Wakely & Wheeler*, [1911] 1 K. B. 905; 31 Digest 332, 4757). But in another case where the defects (settlement and bulging of walls) were caused by the natural operation of time and the elements upon a house, the original construction of which was faulty, the defendants were held not liable to repair under a covenant to "when and where and as often as occasion shall require, well, sufficiently, and substantially repair, uphold, sustain, maintain, and mend and keep" (*Lister v. Lane & Nesham*, [1893] 2 Q. B. 212; 31 Digest 328, 4700).

Speaking generally, a tenant must replace any parts which are worn out or have become unsuitable where the replacing is necessary to maintain the house in a habitable state (*Lurcott v. Wakely & Wheeler, supra*).

While the tenant is not bound under his covenant to repair and improve the building so as to make it something different from what it was originally, he must do such repairs as are suitable for the building having regard to its age and class and he must replace any parts (including the floors or roofs or external walls) which have become defective or dangerous owing to the lapse of time or the effect of the elements (*Lurcott v. Wakely & Wheeler* and *Proudfoot v. Hart, supra*). He must also do such repairs as are necessary to preserve the premises (*Proudfoot v. Hart, supra*; *Belcher v. M'Intosh* (1839), 8 C. & P. 720; 31 Digest 326, 4677; *Payne v. Haine* (1847), 16 M. & W. 541; 31 Digest 328, 4702; *Saner v. Bilton* (1878), 7 Ch. D. 815; 31 Digest 343, 4865).

(e) **Consideration of list by local authority.**—The submission of a list of proposed works together with a request worded in the terms of sub-s. (1) will oblige local authorities to consider:

- (1) whether any works will make the house fit for human habitation;
- (2) if so, what works, and
- (3) whether the owner's proposed list of works covers everything which in the opinion of the local authority it will be necessary to carry out.

The local authority are not here concerned with the cost of the necessary works. They have merely to decide what works, if any, will make the house, in their opinion, fit for human habitation, so that it would remain fit for a period of not less than five years, with reasonable care and maintenance, and then leave it to the owner to say whether he will execute those works. If he is not prepared to carry out the works, then he will not get his immunity certificate and the house may be dealt with at any time under the appropriate provisions of the Housing Acts.

In specifying any additional works, local authorities must be careful to specify any "works of improvement" (otherwise than by way of decoration or repair). If it is desired that the owner should, at the same time, execute works of repair or decoration, this should be approached as an entirely separate matter. Local authorities have power to enforce repairs under s. 11, and the approval of works under this section will not give immunity from notices to repair under s. 11, p. 70, *ante* (see sub-s. (4) of this section).

(f) **The certificate.**—Note the provision contained in s. 165, p. 292, *post*. The form of the certificate has been prescribed in S. R. & O., 1937, No. 80, Form I, p. 553, *post*.

52. Exclusion from ss. 50 and 51 of premises comprised in certain orders, &c.—(1) The provisions of the two last foregoing sections shall not have effect in the case of premises comprised in a clearance order confirmed by the Minister or in a compulsory purchase order so confirmed under the provisions of this Part of this Act relating to clearance areas or to improvement areas, or in the case of premises comprised in a demolition order made under Part II of this Act which has become operative, or in the case of premises comprised in a re-development plan approved by him.

(2) Where proposals are submitted to a local authority under either of the two last foregoing sections in relation to premises not comprised in a clearance or compulsory purchase order or re-development plan so confirmed or approved as aforesaid but comprised in an area which has been defined as a clearance area or as a proposed re-development area, the authority may, in lieu of proceeding as mentioned in that section, transmit the proposals to the Minister and the Minister shall deal with the proposals in connection with the consideration by him of the clearance order or compulsory purchase order, or of the re-development plan, as the case may be, as if the proposals had been objections to the order or plan made on the date on which the proposals were submitted to the authority, (a) and if, in confirming the order or plan, the Minister excludes the premises from the clearance area (b) or the re-development area, the authority shall thereupon proceed in relation to the proposals as mentioned in the said section and the provisions thereof shall have effect accordingly.

NOTES TO SECTION 52

This section reproduces with verbal amendments, s. 56 of the Act of 1935.

General Note.—This section provides :

- (1) That the provisions of ss. 50 and 51 shall not have effect in the case of
 - (a) premises included in a clearance order confirmed by the Minister,

- (b) premises included in a compulsory purchase order made under this Part of this Act relating either to a clearance area or an improvement area and confirmed by the Minister,
- (c) premises comprised in a demolition order which has become operative,
- (d) premises comprised in a re-development plan approved by the Minister;
- (2) That where proposals submitted to a local authority under ss. 50 or 51 relate to premises which have been included in
 - (a) a clearance order, or
 - (b) a compulsory purchase order, or
 - (c) a re-development plan
 which has not been confirmed or approved by the Minister, as the case may be, the authority instead of dealing with the proposals in the manner prescribed by ss. 50 or 51, as the case may be, *may* submit the proposals to the Minister;
- (3) That where proposals are submitted to the Minister in this way, the Minister shall deal with the proposals as if they had been objections to the order or plan made on the date on which the proposals were submitted to the authority;
- (4) That if after treating such proposals as objections the Minister excludes the premises from the clearance area or the re-development area, the authority shall thereupon proceed in relation to the proposals as mentioned in ss. 50 or 51, as the case may be, and the provisions of the sections (50 or 51) shall have effect accordingly.

(a) **Treatment of proposals as objections.**—In this connection the date on which the proposals were submitted to the local authority become important. If objections are *duly* made to a clearance order, compulsory purchase order or re-development plan the Minister must hold a local inquiry before confirming the order or approving the plan. An objection will not be *duly* made unless it is made within the prescribed time. If, therefore, proposals are not submitted to the local authority within the time allowed for the lodging of objections, the Minister will not be obliged to hold a local inquiry. He can consider the proposals without either an inquiry or even hearing, in support of the proposals, the persons who submitted them.

(b) **“Excludes the premises from the clearance area.”**—Although the Minister may exclude the premises from a clearance area, he may authorise their acquisition under s. 27 of this Act (p. 110, *ante*), where the order before him is a compulsory purchase order (not a clearance order). In this event the premises will then be included in a compulsory purchase order confirmed by the Minister and the provisions of sub-s. (1) of s. 52 will apply so as to exclude the operation of s. 50 or s. 51, as the case may be.

53. Local authority for re-development, &c., by owners in London (other than the City).—(1) As respects the administrative county of London other than the City of London the metropolitan borough council shall be the local authority for the purposes of the three last foregoing sections.

(2) Before deciding to treat as satisfactory any proposals submitted to them for such re-development as is mentioned in section fifty of this Act, a metropolitan borough council shall consult the London County Council and shall obtain their approval to the proposals:

Provided that if, within a period of two months from the date on which the metropolitan borough council first inform the London County Council in writing of any such proposals, the latter council fail to give notice to the metropolitan borough council of their approval of, or their refusal to approve the proposals, the London County Council shall be deemed to have given their approval thereto for the purposes of this section.

NOTES TO SECTION 53

This section replaces s. 57 of the Act of 1935.

The position as regards London is somewhat peculiar. The L.C.C. carry out the clearance of practically all the larger slum areas in London and they are the principal housing and re-housing authority. Yet there is no obligation on the part of a metropolitan borough council to submit re-development proposals to the L.C.C., unless they are in favour of the proposals. Thus an owner may have his re-development plan rejected by a metropolitan borough council, and find at a later date that his property has been included in a clearance area by the L.C.C. who have not been informed of his proposals. Possibly, had the proposals been placed before the L.C.C. they might have approved them. As a precaution, therefore, persons in the administrative County of London, who submit proposals to a metropolitan borough under s. 54 of this Act, are advised to notify the L.C.C. in writing that such proposals have been made and enclose a duplicate thereof for the information of the L.C.C. If the proposals are rejected by the borough council and at a later date the L.C.C. include the properties in a clearance area, the L.C.C. will not be able to say that they know nothing of the proposals and have had no opportunity of considering them.

It would seem that the provisions of s. 53 would require that the metropolitan borough should inform the L.C.C. immediately of any proposals under either ss. 50 or 51 received by them in case the L.C.C. have already made a clearance or compulsory purchase order under Part III, including the premises to which the proposals relate. Unless this is done complications and difficulties may arise. On the other hand, it is recognised that metropolitan boroughs and the L.C.C. are usually acquainted with each other's actions so that difficulties which might theoretically arise may not arise in practice.

A metropolitan borough council may be prepared to approve a proposal but the L.C.C. may disapprove, in which case the metropolitan borough council will be obliged to disapprove also. The Act does not require that the person whose proposals are rejected shall be informed whether his proposals have been disapproved.

As to authorities outside London, see s. 1, p. 47, *ante*.

Demolition of obstructive buildings.

54. Power of local authority to order demolition of obstructive building.—(1) The local authority may serve (a) upon the owner or owners (b) of a building which appears (c) to the authority to be an obstructive building (d) notice (e) of the time (being some time not less than twenty-one days after the service of the notice) and place at which the question of ordering the building to be demolished will be considered by the authority, and the owner or owners

shall be entitled to be heard (f) when the matter is so taken into consideration.

(2) If, after so taking the matter into consideration, the authority are satisfied that the building is an obstructive building and that the building or any part thereof ought to be demolished, they may make a demolition order (g) requiring that the building or that part thereof shall be demolished, and that the building, or such part thereof as is required to be vacated for the purposes of the demolition, shall be vacated within two months from the date on which the order becomes operative (h), and if they do so, shall serve a copy of the order upon the owner or owners of the building.

(3) In this section the expression "obstructive building" means (i) a building (j) which, by reason only of its contact with, or proximity to, other buildings, is dangerous or injurious to health (k).

(4) This section shall not apply to a building which is the property of statutory undertakers (l), unless it is used for the purposes of a dwelling, showroom, or office, or which is the property of a local authority.

NOTES TO SECTION 54

This section reproduces ss. 58 and 59 of the Act of 1935.

General Note.—A local authority may act under this section if *it appears* to them that a building is an obstructive building. The steps to be taken are :

- (1) Serve a notice stating
 - (a) the time, and
 - (b) the place
 at which the question of ordering the building to be demolished will be considered by the authority.
- (2) Consider the question of ordering the building to be demolished, hearing the owner or owners thereon if they attend.
- (3) Satisfy themselves, upon such consideration, that the building or part thereof ought to be demolished.
- (4) Make a demolition order.
- (5) Serve a copy of the order upon the owner or owners of the building.

The section does not apply to—

- (1) property which is the property of statutory undertakers unless it is used for the purpose of
 - (a) a dwelling-house,
 - (b) a showroom,
 - (c) an office ;
- (2) property which is the property of a local authority.

The local authority.—*I.e.*

- (a) as respects the City of London—the Common Council ;
- (b) as respects any other part of the administrative County of London—the council of the metropolitan borough ;
- (c) elsewhere—the council of the county borough or county district (urban or rural district). (See ss. 1 and 56.)

(a) "**Serve.**"—See s. 167 (p. 293, *post*). The notice must be signed by the clerk or his lawful deputy (s. 164 (2), p. 292, *post*).

(b) "**Owner or owners.**"—See s. 188 (1), p. 311, *post*.

(c) "**Which appears.**"—At a later stage the authority must consider the matter further and hear the owner or owners if they wish to be heard. Therefore it would seem that the words "which appears" mean "which *prima facie* appears." (Cf. s. 11, and notes thereto, p. 70, *ante*.)

(d) "**Obstructive building.**"—For definition, see sub-s. (3), *infra*.

(e) "**Notice.**"—This must be signed by the clerk to the local authority or his lawful deputy: see s. 164, p. 292, *post*.

(f) "**Shall be entitled to be heard.**"—In order to afford the owner or owners a proper hearing, the local authority should inform them of the reasons why they are considering making a demolition order. The authority should also avoid giving the impression to owners that they have come to a final conclusion and that nothing the owner or owners can say will make any difference. The Act appears to contemplate that upon hearing the owner or owners the authority may change their mind. Even though the authority are quite satisfied after hearing the owner or owners that the building is an obstructive building, they are not bound to make a demolition order—the making of such an order is discretionary.

(g) "**Demolition order.**"—This order will require—

- (i) that the building (or part thereof, as the case may be) is to be vacated within two months from the date on which the order becomes operative;
- (ii) that the building (or part thereof, as the case may be) shall be demolished.

The order must be under the seal of the local authority and authenticated by the seal of the clerk or his lawful deputy. (See 164, p. 292, *post*.)

The Act merely requires service of a copy of the order, not the actual order itself.

(h) "**Date on which the order becomes operative.**"—See s. 15, p. 81, *ante*, made applicable to this section by s. 55 (5).

(i) "**Means.**"—The word "means" has an excluding effect (*R. v. Kershaw* (1856), 21 J. P. 181, and see further note (a) to s. 188.) Therefore only buildings which are dangerous or injurious to health by reason of their contact with, or proximity to, other buildings, are obstructive buildings within the meaning of this part of the Act.

(j) "**A building.**"—This is a wider term than dwelling-house. See *Jackson v. Knutsford U.D.C.*, [1914] 2 Ch. 686; 38 Digest 214, 488, where EVE, J., held that the term "building" under the corresponding provisions of the Housing of the Working Classes Act, 1890, was not limited to a dwelling-house, but included a building constructed for and used solely as a cycle-maker's and mechanic's workshop. See also *Grosvenor (Lord) v. Hampstead Junction Rly. Co.* (1857), 1 De G. & J. 446; 11 Digest 180, 574.

(k) "**Dangerous or injurious to health.**"—It will suffice to show that the building is dangerous to health without showing that it is also injurious to health. Cf. s. 25, p. 94, *ante*.

(l) "**Statutory undertakers.**"—See s. 188 (1), p. 311, *post*.

55. Effect of order for demolition of obstructive building.—(1) If, before the expiration of the period within which a building in respect of which an order is made under the last foregoing section is thereby required to be vacated, any owner or owners (a), whose estate or interest, or whose combined estates or interests, in the building and the

site thereof is or are such that the acquisition thereof by the local authority would enable the local authority to carry out the demolition provided for by the order, make to the local authority an offer for the sale of that interest, or of those interests, to the local authority at a price to be assessed, as if it were compensation for a compulsory purchase, by arbitration in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919 (*b*), subject to observance of the rules specified in the Fourth Schedule (*c*) to this Act, the authority shall accept (*d*) the offer and shall, as soon as possible after obtaining possession, carry out the demolition (*e*).

(2) If no such offer as is mentioned in the last foregoing subsection is made before the expiration of the said period, the owner or owners of the building shall carry out the demolition provided for by the order before the expiration of six weeks from the last day of that period (*f*), or, if the building, or such part thereof as is required to be vacated, is not vacated until after that day, before the expiration of six weeks from the day on which it is vacated or, in either case, before the expiration of such longer period as in the circumstances the local authority deem reasonable, and if the demolition is not so carried out the local authority shall enter and carry out the demolition and sell the materials rendered available thereby.

(3) The provisions of subsections (2) to (5) of section thirteen of this Act shall apply in relation to any expenses incurred by a local authority (*g*) under the last foregoing subsection and to any surplus remaining in the hands of the authority, as they apply in relation to any expenses or surplus in a case where a house is demolished in pursuance of a demolition order made under Part II of this Act, with the substitution of references to the building demolished under this section for references to the house demolished under the said section thirteen.

(4) Where the demolition of a building is carried out under subsection (2) of this section, either by the owner or owners thereof or by the local authority, compensation (*h*) shall be paid by the authority to the owner or owners in respect of loss arising from the demolition, and that compensation shall, notwithstanding that no land is acquired compulsorily by the local authority, be assessed in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919, subject to observance of the rules specified in the Fourth Schedule to this Act, except that paragraphs (2) to (6) of section two of that Act shall

not apply and that paragraph (i) of the said section two shall have effect with the substitution of a reference to demolition for the reference to acquisition.

(5) Sections fifteen (i) and nineteen (j) of this Act shall have effect in relation to a demolition order made under the last foregoing section and to a building or part of a building to which such an order applies, as they have effect in relation to a demolition order made under Part II of this Act and to a house to which such an order applies, as if references therein to a demolition order included references to a demolition order under the last foregoing section and the references therein to Part II of this Act included references to the last foregoing section and this section.

NOTES TO SECTION 55

Sub-sections (1) to (4) reproduce with verbal amendments s. 60 of the 1935 Act and sub-s. 5 reproduces s. 61 of that Act.

Offer to sell obstructive building to local authority.—The following points should be noted :

- (1) The offer must be made before the expiration of the period within which the building is required by the order to be vacated.
- (2) The offer must be an offer to sell an estate or interest the acquisition of which would enable the local authority to carry out the demolition provided for by the order.
- (3) The offer must be an offer to sell the estate or interest at a price to be assessed as if it were compensation for a compulsory purchase to which the provisions contained in the Fourth Schedule to this Act applied.
- (4) If the offer is duly made, the local authority must accept it.
- (5) The local authority must, as soon as possible after obtaining possession, carry out the demolition.

(a) **"Owner or owners."**—See s. 188 (1), p. 311, *post*.

(b) **"Acquisition of Land (Assessment of Compensation) Act, 1919."**
The text of this Act is printed on p. 721, *post*.

(c) **"Fourth Schedule."**—See p. 334, *post*.

(d) **"Shall accept."**—Note that if the owner makes the offer the authority have no alternative but to accept.

(e) **"Shall . . . carry out the demolition."**—Note that the Rent Restriction Acts do not prevent an owner from obtaining possession (see s. 156, p. 285, *post*).

(f) **Time within which obstructive building must be demolished.**—This subsection provides that where no offer as aforesaid is made, the owner or owners shall demolish the obstructive building

- (i) within six weeks from the last day of the period within which the building must be vacated ; or
- (ii) if the building is not vacated until after the last day of the period within which it ought to have been vacated, before the expiration of six weeks from the date on which it is vacated ; or
- (iii) in either case, before the expiration of such longer period as the local authority may allow.

If the demolition is not so carried out, the local authority must enter and carry out the demolition and sell the material rendered available thereby.

(g) **Expenses of local authority.**—For the provisions of sub-ss. (2)–(5) of s. 13, see p. 78, *ante*.

(h) **Compensation for loss incurred by demolition of building.**—See Introduction, p. 23, *ante*. Note this provision makes the provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919, applicable, even though there may be no acquisition of land.

(i) **Section 15.**—*I.e.* this section, which provides for appeal to the County Court, see p. 81, *ante*.

(j) **Section 19.**—See p. 88, *ante*.

56. Local authority for demolition of obstructive buildings in London (other than the City).—As respects the administrative county of London other than the City of London the metropolitan borough council shall be the local authority for the purposes of the two last foregoing sections.

NOTE TO SECTION 56

As to local authorities generally, see s. 1, p. 47, *ante*.

PART IV.—ABATEMENT OF OVERCROWDING.

57. Duty of local authority to inspect and to make reports and proposals as to overcrowding.—(1) It shall be the duty of every local authority (a) before such dates (b) as may be fixed by the Minister as respects their district, to cause an inspection (c) thereof to be made (d) with a view to ascertaining what dwelling-houses (e) therein are overcrowded (f), and to prepare and submit to the Minister a report (g) showing the result of the inspection and the number of new houses required (h) in order to abate overcrowding in their district, and, unless they are satisfied that the required number of new houses will be otherwise provided, to prepare and submit to the Minister proposals for the provision thereof.

(2) If at any time or times after effect has been given by a local authority to the provisions of the foregoing subsection it appears to them that occasion has arisen therefor, or the Minister so directs (i), it shall be the duty of the authority to cause a further inspection to be made and to prepare and submit a report and proposals as aforesaid as respects their district or any part thereof, and, where the Minister gives a direction under this subsection, he may, after consultation with the local authority, fix dates before which the performance of the said duties is to be completed.

NOTES TO SECTION 57

General Note.—This section reproduces s. 1 of the Act of 1935. It imposes on local authorities the duty

- (1) to inspect their district with a view to ascertaining what dwelling-houses therein are overcrowded ;
- (2) to report the result of such inspection to the Minister of Health ;
- (3) to submit proposals (if such are necessary) for the provision of the necessary houses to abate the overcrowding.

The section also provides for further inspections from time to time as the occasion may require. "Generally speaking, once a complete survey has been carried out and the overcrowding abated, there should be no need for any subsequent survey on the same scale, but to meet exceptional conditions provision is made for a further survey to be carried out by the local authority if they consider that occasion for it has arisen, or the Minister so directs." (Memorandum B, p. 608, *post*.)

Inspections have already been carried out and reports submitted to the Minister. The result of these has been published in a Blue Book. The Minister has also brought this part of the Act into operation in all districts by appointing days for the purpose. Much of this work will require to be done again. The curtailment of building for overcrowding and general needs during the war which was accepted in para. 5 of the Minister's Circular 1866/39 together with the destruction caused by enemy action, has caused a situation in which to insist (in the immediate future) on the enforcement of the overcrowding standards would result in an aggravation of the housing problem.

Local authorities have also a duty imposed on them to review the housing needs of their district from time to time. See s. 71, p. 191, *post*.

(a) "**Local authority.**"—See s. 1, p. 47, *ante*, and s. 69, p. 187, *post*.

(b) "**Dates.**"—Note that the word used is "dates," not "date." The Minister may not only fix different dates for different authorities, but also different dates for different parts of the districts of a local authority. Commenting on this before the Standing Committee of the House of Commons on the 1935 Bill, the Minister said : "It is in elasticity and the careful adaptation of measures which you are going to take as regards fixing dates and the actual circumstances of the authority that you can attain the greatest rate of acceleration." The Minister also said that the date will be that which provides for the minimum possible time in each case.

(c) "**Inspection.**"—Before the Standing Committee of the House of Commons the hope was expressed that local authorities, in conducting the surveys, would bear in mind the private feelings of the people who were surveyed, and that the procedure adopted would be as tactful as possible, and that before inspection of houses took place, the inhabitants should receive an intimation, so that people could have an opportunity, if the inspection were not convenient, to have a postponement of the date (Mr. H. G. Williams, M.P.). The Minister endorsed this "very useful warning." For power of entry for the purpose of inspection, see s. 157, p. 286, *post*. Metropolitan borough councils will note the provisions contained in s. 70, p. 189, *post* (Contributions by L.C.C. to expenses of inspection, etc.). See further, Memorandum B, p. 608, *post*.

(d) "**Made.**"—The word "made" here means "completed." The inspection will have to be completed within the time fixed by the Minister.

(e) "**Dwelling-houses.**"—See s. 68, p. 184, *post*.

(f) "**Overcrowded.**"—See next section.

(g) "**Report.**"—The inspection will be the first stage, the Report the second stage, and the submission of proposals the third stage. Unless the Minister otherwise directs, there is, of course, no reason why a local authority wishing to do so, should not submit their proposals for the abatement of overcrowding by the provision of new houses at the same time as they submit their report.

(h) "**Required.**"—*I.e.* required to re-house the overcrowded. Having regard to the scope and object of this part of the Act, and in particular to the provision contained in s. 59 (2), p. 171, *post*, it would seem that the new houses must provide "suitable alternative accommodation" for the overcrowded persons. This term is defined by s. 68, p. 184, *post*.

(i) "**If . . . the Minister so directs.**"—Note that this section confers power on the Minister to cause further inspections to be made subsequent to the first inspection.

Note also the power conferred on the Minister by s. 179 (p. 306, *post*) to require local authorities to report to him on any crowded area; also, s. 175 of this Act, power of L.C.C. to act in default of metropolitan borough council.

58. Definition of overcrowding.—(1) A dwelling-house shall be deemed for the purposes of this Act to be overcrowded at any time when the number of persons sleeping in the house either—

- (a) (a) is such that any two of those persons, being persons ten years old or more of opposite sexes and not being persons living together as husband and wife, must sleep in the same room; or
- (b) (b) is, in relation to the number and floor area of the rooms of which the house consists, in excess of the permitted number of persons as defined in the Fifth Schedule to this Act.

(2) In determining for the purposes of this section the number of persons sleeping in a house, no account shall be taken of a child under one year old, and a child who has attained one year and is under ten years old shall be reckoned as one-half of a unit.

NOTES TO SECTION 58

General Note.—This section reproduces s. 2 of the Act of 1935. It defines overcrowding. Note that (a) and (b) are alternative, but a house may be overcrowded on both grounds (a) and (b). See further, Fifth Schedule, p. 335, *post*. Also Memorandum B, p. 608, *post*, where examples are appended. Before the Standing Committee of the House of Commons on the 1935 Bill, the Minister said that this standard had been arrived at after prolonged, close and detailed consultation with all the local authorities of the country and their medical officers. Note also that in determining whether a house is overcrowded within the meaning of this section—

(i) no account is to be taken of a child under one year old;

(ii) a child over one year but under ten is to be reckoned as half a unit.

By s. 60 of this Act the Minister may by order increase "the permitted number" temporarily to meet exceptional circumstances. See also Forms in S. R. & O. 1937, No. 80 (Overcrowding and Miscellaneous Forms), p. 547, *post*.

(a) **Paragraph (a).**—Both the two persons must be over ten years old, and they must be of opposite sex. The words "must sleep in the same room" may give rise to difficulty. It must be noted that "rooms" include living rooms as well as bedrooms (see s. 68, p. 184, *post*). If a living room is available, therefore, although it may not contain any sleeping accommodation in the proper sense of the term, it will be computed as a room for the

purposes of this paragraph. On the other hand, rooms which are not normally used in the locality either as a living room or as a bedroom do not count as rooms for the purposes of the section. It will not therefore be possible to get over the provisions of the section by alleging that a scullery or bathroom is available. (See Memorandum B, p. 608, *post*.)

(b) **Paragraph (b).**—See Fifth Schedule, p. 335, *post*, and Memorandum B, p. 608.

59. Offences in relation to overcrowding.—(1) Subject to the provisions of this Part of this Act (*a*), if after the appointed day (*b*) the occupier or the landlord (*c*) of a dwelling-house (*d*) causes or permits it to be overcrowded, he (*e*) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding five pounds and to a further fine not exceeding two pounds in respect of every day subsequent to the day on which he is convicted on which the offence continues (*f*).

(2) The occupier of a dwelling-house which is occupied on the appointed day shall not be guilty of an offence under this section in respect of the overcrowding thereof so long as all the persons sleeping in the house are persons who were living there on the appointed day and thereafter continuously live there, or children born after that day of any of those persons, unless—

(a) suitable alternative accommodation (*g*) is offered to the occupier after the appointed day and he fails to accept it; or

(b) suitable alternative accommodation is so offered to some person living in the house who is not a member of the occupier's family and whose removal is reasonably practicable in all the circumstances, and the occupier fails to require his removal.

(3) Where after the appointed day a dwelling-house which would not otherwise be overcrowded becomes overcrowded by reason of a child attaining one of the ages referred to in the last foregoing section, then, if the occupier applies to the local authority for suitable alternative accommodation or has so applied before the date when the child attains that age, he shall not be guilty of an offence under this section in respect of the overcrowding of the house after the date of his application, so long as all the persons sleeping in the house are persons who were living there on the date when the child attained that age and thereafter continuously live there, or children born after that date of any of those persons, unless—

(a) suitable alternative accommodation is offered to the occupier on or after the date when the child

attains that age, or, if he has applied before that date, is offered at any time after the application, and he fails to accept it ; or

- (b) the removal from the house of some person not a member of the occupier's family is on that date or thereafter becomes reasonably practicable having regard to all the circumstances (including the availability of suitable alternative accommodation for that person), and the occupier fails to require his removal.

(4) Where the persons sleeping in an overcrowded house include a member of the occupier's family who does not live there but is sleeping there temporarily, the occupier shall not be guilty of an offence under this section in respect of the overcrowding of the house unless the circumstances are such that he would be so guilty if that member of his family were not sleeping in the house.

(5) The landlord of an overcrowded house shall be deemed to cause or permit it to be overcrowded—

- (a) if, after notice in writing (*h*) that it is overcrowded in such circumstances as to render the occupier thereof guilty of an offence has been served (*i*) upon the landlord or his agent by the local authority, the landlord fails to take such steps as it is reasonably open to him to take for securing the abatement of the overcrowding, including if necessary legal proceedings for possession of the house ; or
- (b) if, when letting the house after the appointed day, the landlord, or any person effecting the letting on the landlord's behalf, had reasonable cause to believe that it would become overcrowded in such circumstances as to render the proposed occupier thereof guilty of an offence, or failed to make inquiries of the proposed occupier as to the number, age and sex of persons who would be allowed to sleep in the house ;

and not otherwise.

NOTES TO SECTION 59

General Note.—This section reproduces s. 3 of the Act of 1935. It provides that an occupier or landlord who causes or permits overcrowding after the appointed day shall, subject to certain conditions, be guilty of an offence and be liable on conviction to a fine not exceeding five pounds and to a further fine not exceeding two pounds for every day the offence continues after the first conviction. Only local authorities may prosecute. A prosecution may be instituted against a local authority (in their capacity as landlords), but only with the consent of the Attorney-General or Solicitor-General (s. 66 (1), p. 181, *post*).

(a) "**Subject to the provisions of this Part of this Act.**"—See sub-ss. (2)–(5) of this section, which limit the liability of both occupier and landlord for overcrowding; also s. 61 (Power of local authority to authorise the temporary use of a house by persons in excess of the permitted number).

(b) "**Appointed day.**"—See definition in s. 68, p. 181, *post*. The Ministry has appointed a day for all districts.

(c) "**Landlord.**"—See definition in s. 68, p. 181, *post*, and notes thereto.

(d) "**Dwelling-house.**"—See s. 68.

(e) "**He.**"—By the Interpretation Act, 1889, s. 1 (18 Halsbury's Statutes 992), unless a contrary intention appears—

(a) words importing the masculine gender shall include females; and

(b) words in the singular shall include the plural, and words in the plural shall include the singular.

(f) **Continuing offences.**—See Stone's Justices' Manual, Edn. 1946, p. 1832.

Subsection (2).—This subsection provides that an *occupier* shall not be guilty of an offence in respect of overcrowding so long as all the persons sleeping in the house are

(1) persons who were living there on the appointed day and thereafter continuously live there;

or (2) children born after the appointed day of persons who were living there on the appointed day and thereafter continuously live there;

unless

(1) suitable alternative accommodation is offered to the occupier and he fails to accept it;

or

(2) (i) Suitable alternative accommodation is offered to some person
(a) living in the house
(b) who is not a member of the occupier's family
(c) whose removal is reasonably practicable in all the circumstances

and

(ii) The *occupier* fails to require his removal.

Subsection (3).—This subsection provides that an *occupier* shall not be guilty of an offence in respect of overcrowding (after the date of an application for suitable alternative accommodation referred to below) in a case where after the appointed day a dwelling-house which would not otherwise be overcrowded becomes overcrowded by reason of a child attaining one of the ages referred to in sub-s. 2 (*i.e.* one year = half a unit, or ten years = a unit):—
if he (*i.e.* the occupier)

(1) applies to the local authority for suitable alternative accommodation,

(2) has so applied before the date when the child attains that age;

so long as

all the persons sleeping in the house are

(1) persons who were living there on the date when the child attained the age above mentioned and continuously live there,

or

(2) children born of any of the persons mentioned in (1) after the date the child attained the above-mentioned age;

unless

(a) suitable alternative accommodation is offered to the occupier

(i) on or after the date when the child attains the age of one or ten as the case may be,

or (ii) if the occupier has applied before the child has attained that age, at any time after the application,
and the occupier has failed to accept it;

- or (b) the removal from the house of some person not a member of the occupier's family
 is on the date the child attains the age of one or ten as the case may be
 or thereafter becomes reasonably practicable having regard to all the circumstances
 and the occupier fails to require his removal.

Subsection (4).—This subsection provides that an *occupier* shall not be guilty of an offence in relation to overcrowding in a case where the persons sleeping in an overcrowded house include a member of the occupier's family who does not live there but is sleeping there temporarily,

unless

the circumstances are such that he would be so guilty if that member of his family were not sleeping in the house.

Subsection (5).—This subsection provides that the landlord of an overcrowded house shall be deemed to cause or permit it to be overcrowded—

- if* (1) (i) notice in writing that the house is overcrowded in such circumstances as to render the occupier thereof guilty of an offence has been served by the local authority upon
 the landlord
 or his agent,
 (ii) and the landlord has failed to take such steps as are reasonably open to him to take for securing the abatement of the overcrowding, including, if necessary, legal proceedings for possession of the house.
 (2) When letting the house after the appointed day
 (i) the landlord or any person effecting the letting on his behalf had reasonable cause to believe that it would become overcrowded in such circumstances as to render the proposed occupier guilty of an offence;
 or (ii) the landlord or any person effecting the letting on his behalf failed to make inquiries of the proposed occupier as to
 (a) the number
 (b) the age
 (c) the sex
 of the persons who would be allowed to sleep in the house.

(g) "**Suitable alternative accommodation.**"—For definition, see s. 68, p. 181, *post*.

(h) "**Notice in writing.**"—See s. 164, p. 292, *post*. For Forms, see S. R. & O., 1937, No. 80 (Overcrowding and Miscellaneous Forms), p. 547, *post*.

(i) "**Served.**"—See s. 167 of this Act, p. 293, *post*.

60. Power of Minister to increase the permitted number temporarily to meet exceptional conditions.—

(1) Where, on the representation of the local authority (a) and after consultation with the Central Housing Advisory Committee constituted under section one hundred and thirty-five of this Act, the Minister is satisfied that dwelling-houses (b) consisting of few rooms (c), or comprising rooms of exceptional floor area, constitute so large a proportion of the housing accommodation in the district of the authority,

or in any part thereof, that the application of the provisions of the Fifth Schedule to this Act (*d*) throughout the district, or that part thereof, immediately after the appointed day would be impracticable, he may by order direct that, in relation to those houses or to such of them as are of a specified type, the said provisions shall, during such period, not exceeding three years from the coming into operation of the order, as may be specified therein and any extension of that period which the Minister may allow, have effect subject to such modifications for increasing the permitted number of persons as may be specified therein, and the order may specify different modifications in relation to different types of houses.

(2) After consultation with the said Committee and the local authority, the Minister may by order revoke any such order as aforesaid, or vary the provisions of any such order either as respects the modifications specified therein or as respects the houses to which the modifications apply or as respects both.

NOTE TO SECTION 60

General Note.—This section reproduces s. 4 of the Act of 1935. It gives the Minister power, after consultation with the Central Housing Advisory Committee (s. 135, p. 267, *post*), to relax the overcrowding standard in respect of a particular area or a particular district. It is recognised that in exceptional circumstances it would be extremely difficult to enforce the national standard until further steps have been taken to reduce the housing shortage. Normally, it is contemplated that any relaxation provided for by an order under this section would apply to particular types of houses and not to all the houses in an area (Memorandum B, p. 608). Local authorities should complete their survey before making a representation under this section (Memorandum B).

(a) “**Local authority.**”—See s. 1, p. 47, *ante*, and as to London, s. 69, p. 187, *post*.

(b) “**Dwelling-houses.**”—See definition in s. 68, p. 184, *post*.

(c) “**Rooms.**”—See definition in s. 68, p. 184, *post*.

(d) “**Fifth Schedule.**”—See p. 335, *post*.

61. Power of local authority to authorise the temporary use of a house by persons in excess of the permitted number.—(1) Where it appears to the local authority, having regard to the existence of exceptional circumstances, to be expedient so to do, they may, on the application of the occupier or intending occupier of a dwelling-house in their district, grant him a licence authorising him to permit such number of persons in excess of the permitted number as may be specified in the licence to sleep in the house.

(2) A licence granted under this section shall be in the prescribed form and may be granted either unconditionally or subject to any conditions specified therein.

(3) A licence granted under this section shall, unless previously revoked, continue in force for such period (not exceeding twelve months) as may be specified therein, but may be revoked by the local authority at their discretion by means of a notice in writing served upon the occupier and specifying a period (not being less than one month from the date of the service of the notice) at the expiration of which the licence is to cease to be in force.

(4) A copy of any licence granted under this section, and of any notice served thereunder, shall be served by the local authority on the landlord, if any, of the dwelling-house to which it relates within seven days after the issue of the licence or the service of the notice on the occupier, as the case may be.

(5) The occupier of a dwelling-house shall not be guilty of an offence under section fifty-nine of this Act by reason of anything done by him under the authority of, and in accordance with any conditions specified in, a licence in force under this section.

(6) A local authority may take into consideration a seasonal increase of population in their district as an exceptional circumstance to which regard is to be had for the purposes of this section.

NOTE TO SECTION 61

This section reproduces s. 5 of the Act of 1935.

General Note.—It will be observed that an application for a licence under this section can be made only by an occupier or intending occupier. The licence will be a personal licence, that is to say, it will not be one which will apply to a house for any occupier, but one which will apply to an occupier in respect of his occupation. The following further points should be noted with regard to the licence :

- (1) It must be in the prescribed form.
- (2) It may be granted either conditionally or unconditionally.
- (3) It must specify the number of persons in excess of the permitted number, who may be permitted by the occupier to sleep in the house.
- (4) It will continue in force for twelve months or such less period as may be specified therein.
- (5) It may, however, be revoked by the local authority at their discretion by means of a notice in writing specifying a period (not being less than one month from the date of service of the notice) at the expiration of which the licence is to cease to be in force.
- (6) A copy of the licence and of any notice determining a licence must be served on the landlord (if any) within seven days from the issue of the licence or the service of the notice, as the case may be.

Although the licence may not be granted for a period exceeding one year, it may apparently be renewed upon a fresh application. The form of licence

and the form of revocation of a licence have been prescribed. See S. R. & O., 1937, No. 80 (Overcrowding and Miscellaneous Forms), p. 547, *post*.

. Subsection (6) is of special interest to seaside and other resorts. See further, Memorandum B, p. 608.

62. Entries in rent books, information and certificates with respect to the permitted number.—(1) As from the expiration of six months from the appointed day (*a*), every rent book (*b*) or similar document used in relation to a dwelling-house by or on behalf of the landlord thereof shall contain a summary in the prescribed form of the provisions of sections fifty-eight, fifty-nine and sixty-one of this Act and a statement of the permitted number of persons (*c*) in relation to the house, and if any such book or document not containing such summary and statement as aforesaid is used by or on behalf of the landlord he shall be liable on summary conviction to a fine not exceeding ten pounds. An occupier of a dwelling-house who is required by an officer of the local authority duly authorised in that behalf (*d*) to produce for inspection by the authority any rent book or similar document which is being used in relation to the house and is in the custody of the occupier or under his control shall, on being so required as aforesaid or within seven days thereafter, produce any such book or document to the officer or at the offices of the authority, and if he fails so to do he shall be liable on summary conviction to a fine not exceeding two pounds.

(2) (*e*) It shall be the duty of the local authority, upon the application of the landlord, or of the occupier, of a dwelling-house, to inform the applicant in writing of the number of persons constituting the permitted number in relation to the house, and a statement inserted in a rent book or similar document under the foregoing subsection shall be deemed to be a sufficient and correct statement if it agrees with information given under this subsection.

(3) The Minister may prescribe the manner in which the floor area of a room is to be ascertained for the purposes of the Fifth Schedule to this Act (*f*), and the regulations may provide for the exclusion from computation, or for the bringing into computation at a reduced figure, of floor space in any part of a room which is of less than a specified height not exceeding eight feet.

(4) A certificate of the local authority (*g*) stating the number and floor areas of the rooms in a dwelling-house,

and that the floor areas thereof have been ascertained in the prescribed manner, shall, for the purposes of any legal proceedings, be *prima facie* evidence of the facts stated therein.

NOTES TO SECTION 62

General Note.—This section reproduces s. 6 of the Act of 1935. It provides (*inter alia*)—

- (1) That as from the expiration of six months from the appointed day every rent book or similar document used in relation to a dwelling-house by or on behalf of the landlord shall contain
 - (a) a summary in the prescribed form of the provisions of ss. 58, 59, and 61 of this Act, and
 - (b) a statement of the permitted number of persons in relation to the house.

(The form of summary has been prescribed by the Minister. See S. R. & O., 1937, No. 80 (Overcrowding and Miscellaneous Forms), p. 547, *post.*)

- (2) That if any such rent book or document not containing such summary and statement is used by or on behalf of the landlord he shall be liable on summary conviction to a fine not exceeding ten pounds.
- (3) That an occupier of a dwelling-house who is required by an officer of the local authority duly authorised in that behalf to produce for inspection by the authority any rent book or similar document which is being used in relation to the house and is in the custody of the occupier or under his control shall, on being so required or within seven days thereafter, produce any such book or document to the officer or at the offices of the authority.
- (4) That an occupier who fails to produce his rent book or other similar document in the above manner when so required shall be liable on summary conviction to a fine not exceeding two pounds.
- (5) That it shall be the duty of the local authority upon the application of the landlord or occupier to inform the applicant in writing of the number of persons constituting the permitted number in relation to the house.
- (6) That a statement inserted in the rent book or similar document shall be deemed to be a sufficient and correct statement if it agrees with the information given by the local authority under sub-s. (2) of this section.

Note in particular that a landlord's agent cannot be made liable for an offence under this section. The landlord is made solely responsible for the carrying out of the duties prescribed by this section. The section does not specify the time within which the information must be supplied, but as the permitted number is required to be entered in the rent book or other similar document, it should be supplied as promptly as possible.

(a) "**Appointed day.**"—See s. 68 and notes thereto, p. 184, *post*

(b) "**Rent book.**"—As to other matters which must be inscribed in a rent book, see note (e) to s. 4, p. 53, *ante*.

(c) "**Permitted number of persons.**"—*I.e.* permitted as a result of the operation of the provisions of this Part of the Act.

(d) "**Duly authorised in that behalf.**"—The officer should be duly authorised by a resolution of the authority and be provided with written authority which he can produce to the occupier when making the request.

(e) **Subsection (2).**—Applicants are advised to make their application in writing and to keep a copy.

(f) See S. R. & O., 1937, No. 80, p. 547, *post*.

(g) "**Certificate of the local authority.**"—It will be open to a landlord or occupier to call rebutting evidence to show that a mistake has been made in the measurements or that the measurements have not been made in the prescribed manner. See s. 165, p. 292, *post*, for authentication of certificates.

63. Information as to rights and duties as respects overcrowding.—The local authority shall have power to publish information for the assistance of landlords and occupiers of dwelling-houses as to their rights and duties under the provisions of this Part of this Act relating to overcrowding and as to the enforcement thereof.

NOTES TO SECTION 63

General Note.—This section reproduces s. 7 of the Act of 1935. It merely confers a *power*; it does not impose a *duty* on local authorities to publish information for the assistance of landlords and occupiers.

Duties of landlord relating to overcrowding—

- (1) Duty not to cause or permit overcrowding (s. 59 (1)).
- (2) Duty to take such steps as it is reasonably open to him to take for securing the abatement of overcrowding, including if necessary legal proceedings for possession of house. This arises after notice in writing has been served on the landlord or his agent that the house is overcrowded in such circumstances as to render the occupier guilty of an offence.
- (3) Duty to make inquiries of proposed occupier regarding the number, etc., of the persons who will sleep in the house (s. 59 (5)).
- (4) Duty to cause certain entries to be made in rent book or other similar document (s. 62 (1)).
- (5) Duty to inform local authority of overcrowding (s. 64).

Rights of landlord relating to overcrowding—

- (1) Right to be served with copy of any licence or notice determining licence under s. 61.
- (2) Right to be informed in writing by the local authority of the number of persons permitted to occupy the house (s. 62 (2)).
- (3) Right to obtain possession of overcrowded house notwithstanding the Rent and Mortgage Interest Restrictions Acts (s. 65 (1)).

Duties of occupier relating to overcrowding—

- (1) Duty not to cause or permit overcrowding (s. 59 (1)).
- (2) Duty to produce rent book or other similar document for inspection of local authority (s. 62 (1)).
- (3) Duty to permit entry of local authority's officers for purpose of measurement of the rooms (s. 62 (3)).
- (4) Duty not to obstruct persons authorised to enter house in the performance of their duties (s. 158).
- (5) Duty under s. 66 (3) of the Act to supply local authority with a statement in writing of the number, ages and sexes of persons sleeping in the house.

Rights of occupier relating to overcrowding—

- (1) Right to apply to local authority for suitable alternative accommodation (s. 59 (3)).
- (2) Right to accommodate temporarily in excess of the permitted number, a member of his family who does not normally reside at the house (s. 59 (4)).

- (3) Right to apply to local authority for a licence authorising him to permit such number of persons in excess of the permitted number as may be specified in the licence to sleep in the house (s. 61).
- (4) Right to be informed in writing by the local authority of the number of persons permitted to occupy the house (s. 62 (2)).

64. Duty of landlord to inform local authority of overcrowding.—Where after the appointed day it comes to the knowledge of the landlord of a dwelling-house or of his agent that it is overcrowded then, unless notice (a) thereof has already been given to the local authority, the landlord or his agent, as the case may be, shall within seven days after that fact first comes to his knowledge give notice thereof to them, and if he fails so to do he shall be liable on summary conviction (b) to a fine not exceeding two pounds :

Provided that this section shall not apply to overcrowding which existed on the appointed day, or has been notified to the landlord or to his agent by the local authority, or is constituted by the use of the house for sleeping by such number of persons as the occupier is authorised to permit to sleep there by a licence (c) in force under this Part of this Act.

NOTES TO SECTION 64

General Note.—This section reproduces s. 8 of the Act of 1935. Note that it does not apply to overcrowding—

- (1) which existed on the appointed day, or
- (2) has been notified to the landlord or his agent by the local authority, or
- (3) is constituted by the use of the house for sleeping by such number of persons as the occupier is authorised to permit to sleep there by a licence in force under that Part of the Act.

But the section does apply to overcrowding caused by some person, who is a member of the occupier's family but who does not normally reside in the occupier's house, sleeping there temporarily. A landlord or his agent, as the case may be, must inform the local authority of the overcrowding (save that overcrowding mentioned in the proviso to the section) irrespective of whether or not the overcrowding will render the occupier liable to proceedings for an offence.

Only the local authority may prosecute for an offence under this section (s. 66 (1), p. 181 *post*).

An agent will not be able to escape liability by pleading that he informed the landlord. The section imposes a personal duty on the agent to inform the local authority when it comes to his knowledge that a house belonging to a landlord for whom he acts as agent is overcrowded. Similarly, it will be useless for a landlord to plead that he asked his agent to notify the local authority. He may, of course, ask his agent to do so, but if his agent does not so inform the authority, the landlord will be held responsible and will probably be convicted.

(a) "**Notice.**"—The section does not specify that the notice is to be in writing, nor does it require the notice to be served on the authority : *cf.* the wording of s. 59 (5), p. 171, *ante*, where the notice there mentioned is required

to be in "writing" and to be "served." Landlords and agents, however, are advised to give notice in writing and serve it on the local authority by—

- (i) delivering it to the local authority's clerk, or
- (ii) leaving it at the clerk's office, or
- (iii) sending it by post in a registered letter addressed to the authority or their clerk. (See s. 166, p. 293, *post.*)

(b) "**Liable on summary conviction.**"—Note that by s. 66 (1) only the local authority can institute proceedings.

(c) "**Licence.**"—See s. 61, p. 175, *ante.*

65. Right of landlord to obtain possession of overcrowded house.—(1) Where a dwelling-house is overcrowded in such circumstances as to render the occupier thereof guilty of an offence, nothing in the Rent and Mortgage Interest Restrictions Acts, 1920 to 1933, shall prevent the landlord from obtaining possession of the house.

(2) Where a landlord comes into possession of a house by virtue only of the provisions of the foregoing subsection then, notwithstanding anything in section two of the Rent and Mortgage Interest Restrictions Act, 1923, the Rent and Mortgage Interest Restrictions Acts, 1920 to 1933, if applicable to the house, shall not cease to apply thereto by reason only of the fact that the landlord comes into possession of the house.

NOTE TO SECTION 65

This section reproduces s. 9 of the Act of 1935. It should be read together with s. 59 (5), p. 171, *ante.* It is suggested that local authorities should assist landlords seeking to obtain possession of controlled houses in order to perform their duty under this part of the Act, by sending an official to Court to prove that the house is overcrowded in such circumstances as to render the occupier guilty of an offence. Without such assistance landlords may find it difficult to prove this fact. Landlords are advised to consult the local authority before taking any such legal proceedings, giving the authority particulars of the duration of the tenancy, and the length of notice necessary to determine it. It would appear, however, that normally it will be better for the local authority to proceed against the occupier under s. 59 or s. 66 (2). But there is this point to be noted: if the occupier voluntarily gives up possession to accept the alternative accommodation offered to him by the local authority, it may result in the house becoming decontrolled. If, however, he obliges the landlord to take legal proceedings to obtain possession of the house, then the provisions of sub-s. (2) of s. 65 will operate. The position under this section is not affected by the Rent and Mortgage Interest Restrictions Acts of 1938 and 1939 (31, 32 Halsbury's Statutes 387, 971).

66. Enforcement of Part IV.—(1) It shall be the duty of the local authority to enforce the foregoing provisions of this Part of this Act as respects dwelling-houses in their district, and a prosecution for an offence against

the said provisions shall not be instituted otherwise than by the local authority :

Provided that such a prosecution may be instituted against the local authority themselves by another person with the consent of the Attorney-General.

(2) The local authority may serve (a) upon the occupier of a dwelling-house which is overcrowded in such circumstances as to render him guilty of an offence notice in writing (b) requiring him to abate the overcrowding before the expiration of fourteen days from the date of the service of the notice, and, if at any time within three months (c) from the expiration of that period the house is in the occupation of the person upon whom the notice was served or of a member of his family and is overcrowded in such circumstances as to render the occupier guilty of an offence, the local authority may make complaint to a court of summary jurisdiction and thereupon the court shall (d), by its warrant (e) in the form set out in the Schedule to the Small Tenements Recovery Act, 1838, or in a form to the like effect, order vacant possession of the dwelling-house to be given to the landlord within such period, not being less than fourteen nor more than twenty-eight days, as they may determine.

Any expenses (f) incurred by the local authority under this subsection in securing the giving of possession of a dwelling-house to the landlord may be recovered by them from him summarily as a civil debt (g).

(3) For the purpose of enabling them to discharge their duties under the foregoing provisions of this Part of this Act, the local authority may serve notice on the occupier of a dwelling-house requiring him to furnish them within fourteen days with a statement in writing of the number, ages and sexes of the persons sleeping in the house, and, if the occupier makes default in complying with the requirement or furnishes a statement which to his knowledge is false in any material particular, he shall be liable on summary conviction (h) to a fine not exceeding two pounds.

NOTES TO SECTION 66

This section reproduces s. 10 of the Act of 1935.

General Note.—Subsection (1) of this section not merely empowers the local authority to enforce the provisions of this Part of the Act, but imposes a *duty* on them so to do. This does not mean that a local authority will be obliged to prosecute an offence ; a mere warning or threat of legal proceedings may suffice to secure conformity with the provision of the Act : see sub-s. (2). See also the advice contained in Memorandum B, p. 608.

The proviso is obviously intended to meet the case of a local authority who are themselves the landlord of an overcrowded house, but proceedings

against an offending authority may be taken only with the consent of the Attorney-General. See, however, s. 1 of the Law Officers Act, 1944 (37 Halsbury's Statutes 71), for circumstances in which the Solicitor-General may act for the Attorney-General.

Note that sub-s. (2) is merely discretionary regarding the notice on the occupier requiring him to abate the overcrowding, but local authorities will doubtless adopt this course as a general rule before taking proceedings. The service of this notice is a condition precedent to obtaining a warrant ordering possession to be given to the landlord under this subsection. Subsection (2) of s. 65 does not appear to operate to prevent decontrol in certain cases where possession is obtained by this method. Note that under this subsection vacant possession can be obtained from a member of the family of the occupier as well as from the occupier upon whom the notice was served, without the service of a fresh notice on such member of the family.

Subsection (3) empowers a local authority to require the occupier to supply them with a written statement of the number, ages and sexes of the persons sleeping in the house. If the occupier makes default or knowingly furnishes a false statement, he may be proceeded against.

Offences.—The following is a summary of the offences which may be committed under this Part of the Act in relation to overcrowding:

By landlord—

- (1) Causing or permitting a house to be overcrowded (s. 59).
- (2) Using or someone else using on his behalf a rent book or other similar document not containing the entries mentioned in s. 62 (*q.v.*).
- (3) Failing to inform local authority that it has come to his knowledge that a dwelling-house of which he is the landlord is overcrowded (s. 64).

By landlord's agent—failing to inform local authority that it has come to his knowledge that a dwelling-house of which his principal is the landlord is overcrowded (s. 64).

By occupier—

- (1) Causing or permitting overcrowding (s. 59).
- (2) Failing to produce rent book or other similar document to local authority when properly required so to do (s. 62 (1)).
- (3) Obstructing the execution of powers and duties under the Act (s. 158).
- (4) Making default in complying with requirement of local authority to furnish statement as to number, ages and sexes of the persons sleeping in the house or knowingly furnishing a false statement (s. 66 (3)).

Consent of the Attorney-General.—The Attorney-General's Department has supplied the following information:

Applications for the fiat of the Attorney-General under this section should be addressed to the Legal Secretary, Law Officers' Department, Room 545, Royal Courts of Justice, Strand, London, W.C. 2.

The following papers are required:

- (1) A Memorial.
- (2) A Statutory Declaration (bearing a 2s. 6d. Revenue stamp) verifying the statements contained in the Memorial.

For form of Memorial see p. 650, *post*.

(a) "**Serve.**"—See s. 167, *post*. For prescribed form see S. R. & O. 1937, No. 80, Form D, p. 550, *post*.

(b) "**Notice in writing.**"—Note that the section expressly requires this notice to be in writing. It must be signed by the clerk or his lawful deputy (s. 164, *post*).

(c) "**Three months.**"—*I.e.* three calendar months (see Interpretation Act, 1889, s. 3; 18 Halsbury's Statutes 993).

(d) "**The court shall.**"—Provided that the local authority comply strictly with the conditions mentioned in this subsection, the Court *must* order vacant possession to be given to the landlord.

(e) "**By its warrant.**"—The warrant is as follows :

Whereas [*set forth the complaint*] we two of His Majesty's justices of the peace, in petty sessions assembled acting for the..... of....., do authorize and command you, on any day withindays from the date hereof [*except on Sunday, Christmas Day, and Good Friday, to be added if necessary*], between the hours of nine in the forenoon and four in the afternoon, to enter (by force, if needful) and with or without the aid of....., the owner or agent, as the case may be, or any other person or persons whom you may think requisite to call to your assistance, into and upon the said tenement, and to eject thereout any person, and of the said tenement full and peaceable possession to deliver to the said..... [*the owner or agent*].

Given under our hands and seals this.....day of.....

To..... and all other constables and peace officers acting for the district of.....

(f) "**Any expenses.**"—The term is "any expenses," but in the event of a dispute the Court might hold that the term meant "any reasonable or necessary expenses."

(g) "**Civil debt.**"—See note (h) to s. 10, p. 70, *ante*.

(h) "**Summary conviction.**"—See note (h) to s. 10, p. 69, *ante*.

67. Duty of medical officers to furnish particulars of overcrowding.—Regulations prescribing the duties to be performed by medical officers of health of boroughs and urban and rural districts, and by medical officers of health in London, made by the Minister under section one hundred and eight of the Local Government Act, 1933, and subsection (2) of section eleven of the Public Health (London) Act, 1936, respectively, shall include provisions for imposing on those officers a duty to furnish annually to the Minister particulars with respect to conditions in relation to overcrowding, and in particular to furnish to him particulars of any cases in which dwelling-houses in respect of which the local authority have taken steps for the abatement of overcrowding have again become overcrowded.

NOTES TO SECTION 67

This section reproduces s. 11 of the Act of 1935.

Regulations dealing with this matter will be found in S. R. & O., 1935, No. 1111 (relating to London), p. 492, *post*, and the Sanitary Officers (Outside London) Regulations, 1935 (No. 1110), p. 499, *post*.

68. Definitions for purposes of Part IV.—In this Part of this Act, and in the Fifth Schedule to this Act, except where the context otherwise requires, the following

expressions have the meanings hereby assigned to them respectively :—

“ The appointed day ” (a) means, in relation to any matter in relation to which the Minister has appointed a day under section ninety-seven of the Housing Act, 1935, that day, and, in relation to any other matter, such day as the Minister may appoint under this provision, and the Minister may fix different days for different purposes and different provisions of this Part of this Act and of subsection (2) of section six of this Act and for different localities ;

“ Dwelling-house ” (b) means (c) any premises used as a separate dwelling (d) by members of the working classes (e) or of a type suitable for such use ;

“ Landlord ” (f) means the immediate landlord of an occupier and includes (g), in relation to an occupier of a dwelling-house who holds under a contract of employment under which the provision of the house for his occupation forms part of his remuneration, his employer, and “ agent ” (h) means, in relation to the landlord of a dwelling-house, a person who collects rent in respect thereof on behalf of the landlord or is authorised by him so to do, or, in the case of a dwelling-house occupied by a person who holds as aforesaid, a person who pays remuneration to the occupier on behalf of the employer or is authorised by him so to do ;

“ Room ” (i) does not include any room of a type not normally used in the locality either as a living room or as a bedroom ;

“ Suitable alternative accommodation ” (j) means, in relation to the occupier of a dwelling-house, a dwelling-house as to which the following conditions are satisfied, that is to say—

(a) the house must be a house in which the occupier and his family can live without causing it to be overcrowded ;

(b) the local authority must certify the house to be suitable to the needs of the occupier and his family as respects security of tenure and proximity to place of work and otherwise and to be suitable in relation to his means ; and

(c) if the house belongs to the local authority, they must certify it to be suitable to the needs of the occupier and his family as respects extent

of accommodation having regard to the standard specified in paragraph (b) of section one hundred and thirty-six of this Act.

NOTES TO SECTION 68

This section, with certain necessary amendments, reproduces s. 12 of the Act of 1935.

(a) "**Appointed day.**"—See Minister's observations in Memorandum B, p. 608, *post*.

(b) "**Dwelling-house.**"—This definition excludes a common lodging-house or hotel, both of which are dwelling-houses within the meaning of Part III. It would, however, include a shop with dwelling-house attached. It is important to note that the overcrowding provisions of this Part of the Act apply only to dwelling-houses used by members of the working classes or which are of a type suitable for such use.

(c) "**Means.**"—See note (a) to s. 188, p. 315, *post*.

(d) "**Used as a separate dwelling.**"—These words are of the utmost importance and may give rise to difficulties in construction. It is thought that the word "used" is of special significance as indicating that parts of a house though not physically separated from other parts may nevertheless be regarded as separate dwellings if the parts are *used* as if they were so separated. For the Minister's construction, see Memorandum B, p. 608.

(e) "**Working classes.**"—This term is not defined by the Act despite its importance. The reason for not defining it was stated by the Minister in committee to be as follows:

"Throughout the long course of housing legislation which we have had in this country, the legislature has always left the definition in the form of 'housing for the working classes.' It has reviewed that definition on the occasion of every Housing Bill in order to see whether it is useful or practicable to give a further definition which would be more sharp. It has always come to the conclusion that it could not do so. I made the same review when drafting this Bill as to whether it was possible to give a sharper definition of the phrase 'working classes' to give a more practical guide, and I was forced to the conclusion to which a long line of predecessors had been forced, and which the House of Commons had accepted on repeated occasions, that the way to secure our ends was best served by leaving the definition in this form."

See notes to s. 4, p. 52, *ante*.

(f) "**Landlord.**"—This term

(1) *means* the immediate landlord of an occupier, and

(2) *includes* the employer of an occupier who holds under a contract of employment (service tenancy).

The tenant of a whole house is the landlord in relation to the sub-tenant of part of his house.

On the authority of *Moussell Brothers v. London and North Western Railway Co.*, [1917] 2 K. B. 836; 81 J. P. 305; 13 Digest 409, 1288; *Allen v. Whitehead*, [1930] 1 K. B. 211; 94 J. P. 17; Digest Supp., it appears that when a duty is imposed by statute upon a person, he does not evade his responsibility by delegating his duties to an agent or servant.

(g) "**Includes.**"—See note (a) to s. 188, p. 315, *post*.

(h) "**Agent.**"—This term is defined to mean not only a person who collects or is authorised to collect rent on behalf of the landlord in respect of the dwelling-house, but, in the case of a service tenancy, a person who pays

remuneration to the occupier on behalf of the employer or is authorised by him so to do. Unless publicity is given to this definition, many persons will remain in ignorance of the fact that they are "agents" within the meaning of this Act, and that as such they have responsibilities and liabilities.

(i) "**Room.**"—This definition will exclude bathrooms, sculleries and attics not normally used in the district as living rooms or bedrooms. Note also the proviso to Fifth Schedule, p. 335, *post*, which provides that in computing the number of persons permitted to use a house for sleeping, no regard is to be had to any room having a floor area of less than 50 square feet. For the regulations on measuring the floor area, see S. R. & O., 1937, No. 80 (Overcrowding and Miscellaneous Forms), p. 547, *post*.

(j) "**Suitable alternative accommodation.**"—This term is only defined in relation to an occupier of a dwelling-house. It does not define the term as used in relation to a person not the occupier or a member of the occupier's family (*cf.* s. 59 (2) (b)). The certificate of the local authority that the alternative accommodation is suitable to the needs of the occupier and his family as respects security of tenure and proximity to place of work and to be suitable in relation to his means, is conclusive and cannot be challenged in any legal proceedings. Obviously someone has to decide this question of suitable alternative accommodation, and the legislature has taken the view that the local authority may safely be entrusted with the task. An attempt, in committee of the House of Commons, to secure an appeal of some kind from the decision of the local authority on this question, proved unsuccessful.

Section 136 provides that a house containing two bedrooms shall be treated as providing accommodation for four persons, a house containing three bedrooms as providing accommodation for five persons, and a house containing four bedrooms as providing accommodation for seven persons.

The form of the local authority's certificate has been prescribed (see S. R. & O., 1937, No. 80, p. 547, *post*).

See further, Memorandum B on the subject of "suitable alternative accommodation," p. 608.

69. Local authority for overcrowding in London (other than the City).—(1) As respects the administrative county of London other than the City of London, the metropolitan borough council shall be the local authority for the purposes of the provisions of this Part of this Act other than the provisions of section fifty-seven of this Act relating to the submission of proposals for the provision of new houses required in order to abate overcrowding :

Provided that—

- (a) the metropolitan borough council shall, instead of submitting their report under section fifty-seven of this Act to the Minister, submit the report to the London County Council ;
- (b) the London County Council shall take into consideration the statements in the report as to the number of new houses required in order to abate overcrowding in the borough and shall, in the event of their not agreeing with the conclusions arrived at, consult with the metropolitan borough council thereon with a view to the

amendment of the statements by agreement between the two councils ;

- (c) the London County Council shall transmit to the Minister the report of the metropolitan borough council or such report revised as hereinbefore provided as the case may require.

(2) As respects the administrative county of London other than the City of London, the London County Council shall be the local authority for the purposes of the provisions of section fifty-seven of this Act relating to the submission of proposals for the provision of new houses required in order to abate overcrowding :

Provided that—

- (a) if a metropolitan borough council propose to provide houses themselves for the purpose of abating overcrowding, they shall, when submitting to the London County Council their report under section fifty-seven of this Act, or as soon as may be thereafter, submit to the county council proposals for the provision of such houses ;
- (b) if the London County Council are of opinion that, having regard to the amount of suitable land available in the borough for the purpose of the provision of such houses, to the financial and other resources of the metropolitan borough council for such provision, or to any other relevant consideration to be stated by the county council in writing at the time, the metropolitan borough council will not be in a position to provide within a reasonable time or at a reasonable cost the number of new houses proposed by them, the county council shall consult with the metropolitan borough council with a view to the revision of the proposals by agreement between the two councils :
- (c) the London County Council, when submitting their proposals under section fifty-seven of this Act for the county, shall transmit to the Minister copies of any proposals made by a metropolitan borough council, or such proposals as revised as hereinbefore provided, as the case may be.

(3) If any difference arises between the London County Council and a metropolitan borough council as to the number of houses to be stated in the report as required in order to abate overcrowding within the borough, or as to the provision of such houses by the metropolitan borough

council, the difference shall be referred to the Minister, whose decision shall be final.

NOTES TO SECTION 69

This section reproduces s. 21, sub-ss. (2)-(4) of the Act of 1935. For local authorities outside London, see s. 1, p. 47, *ante*.

Metropolitan Borough Councils, the London County Council and Overcrowding.

Inspections under s. 57. In the absence of any agreement with the L.C.C. to the contrary, it will be the duty of metropolitan borough councils to make these inspections. For contributions by the L.C.C. towards certain expenses incurred in connection with the inspections, see s. 70, *infra*.

Reports under s. 57. Where a metropolitan borough council make the inspection it will be their duty to prepare the report, but instead of submitting it to the Minister, they must submit it to the L.C.C. The L.C.C. may require a metropolitan borough council who have submitted a report to consult with them with a view to revising statements contained therein as to the number of new houses required. Any difference arising between the councils on this point must be submitted to the Minister for his determination, which will be final. The report or revised report, as the case may be, must be submitted to the Minister by the L.C.C.

Proposals for new houses to abate overcrowding. It will be the duty of the L.C.C., not the metropolitan borough councils, to submit such proposals to the Minister. But if a metropolitan borough council desire to provide new houses themselves then the procedure prescribed by the proviso to sub-s. (2) of this section must be followed.

Offers of alternative accommodation under s. 59. Subject to the terms of any agreement made under s. 181, it will be the duty of the metropolitan borough council to make these offers. As much of the new housing accommodation will be provided by and be at the disposal of the L.C.C., this will necessitate consultation and close co-operation with the L.C.C.

Enforcement of the provisions of Part I relating to overcrowding. Subject to the terms of any agreement made under s. 181, it will be the duty of metropolitan borough councils to enforce, within their districts, the provisions of Part I of the Act relating to overcrowding. For contributions by the L.C.C. towards certain expenses of metropolitan borough councils in enforcing the provisions of this Part of the Act, see s. 70.

70. Contributions by London County Council to expenses in relation to overcrowding.—The London County Council shall, as respects the period from the sixteenth day of May, nineteen hundred and thirty-four, to the thirty-first day of March, nineteen hundred and forty-one, and may, as respects any period subsequent to the last-mentioned date, pay to a metropolitan borough council a sum equal to one-half of the expenses incurred by the last-mentioned council in the remuneration of any person specifically employed by that council for the purpose of rendering clerical or other assistance to a sanitary inspector in connection with—

- (a) any inspection of the borough made by the metropolitan borough council with a view to ascertaining

what dwelling-houses therein are overcrowded, and the preparation of the report thereon ; and

- (b) the enforcement of the provisions of this Part of this Act :

Provided that the London County Council shall not be required to pay any sum to a metropolitan borough council under this subsection unless the following conditions are satisfied in relation to that council, that is to say—

- (i) as respects any period before the second day of August, nineteen hundred and thirty-five, the amount of the expenses so incurred must be approved by the London County Council ;
- (ii) as respects any period after the second day of August, nineteen hundred and thirty-five, the metropolitan borough council must obtain the prior approval of the London County Council to the number of persons to be so employed and their rate of remuneration ;
- (iii) the metropolitan borough council must comply with such reasonable conditions as the London County Council may think fit to impose as to the rate of progress to be made with respect to the inspection of the borough, and as to the arrangements to be made for the carrying out by the metropolitan borough council of their duties in relation to overcrowding ; and
- (iv) the metropolitan borough council must submit to the London County Council at the end of each year information as to the steps taken in connection with, and as to the result of, the enforcement of the provisions relating to overcrowding in the borough, together with a copy of any particulars furnished to the Minister in pursuance of section sixty-seven of this Act.

NOTES TO SECTION 70

This section reproduces sub-s. (1) of s. 22 of the Act of 1935. It will be noted that the contributions here referred to are very limited in character and are made subject to severe conditions.

Note also the provisions of s. 181, p. 306, *post*, which confer on, *inter alia*, the London County Council and Metropolitan Borough Councils the power to make agreements with each other with respect to (a) any action to be taken under Part IV of the Act (*i.e.* in relation to overcrowding) ; (b) the exercise by one of the parties to the agreement of any powers conferred on the other by Part IV ; (c) the making of contribution by one of the councils towards the expenses incurred by the other in taking any such action or in exercising any such powers.

PART V.—PROVISION OF HOUSING ACCOMMODATION FOR THE WORKING CLASSES.

General Powers and Duties of Local Authorities.

71. Duty of local authorities periodically to review housing conditions in their areas and to frame proposals.—It shall be the duty of every local authority (*a*) to consider the housing conditions in their district and the needs of the district with respect to the provision of further housing accommodation for the working classes (*b*) and for that purpose to review the information which has been brought to their notice, either as a result of inspections and surveys carried out under section five of this Act (*c*) or otherwise, and as often as occasion arises, or within three months after notice has been given to them by the Minister, to prepare and submit to the Minister proposals for the provision of new houses for the working classes, distinguishing those houses which the authority propose to provide for the purpose of rendering accommodation available for persons to be displaced by, or in consequence of, action taken by the authority under this Act.

NOTES TO SECTION 71

General Note.—This section reproduces with verbal amendments s. 25 (1) of the Housing Act, 1930.

It must be noted that the section imposes a duty on local authorities and that therefore a failure to carry out this duty so imposed will render them liable to action by the County Council, the L.C.C. or the Minister, as the case may be, to act in default under the powers conferred on them by ss. 169 to 175, pp. 294 *et seq.*, *post*.

(*a*) "**Local authority.**"—For the definition of this term, see s. 1, p. 47, *ante*; for the application of this part to London, see s. 103, p. 230, *post*.

(*b*) "**Working classes.**"—See note (*f*) to s. 6, p. 57, *ante*.

(*c*) **Section 5.**—See p. 53, *ante*.

72. Mode of provision of accommodation.—(*1*) A local authority (*a*) may provide housing accommodation for the working classes (*b*)—

- (*a*) by the erection of houses (*c*) on any land acquired (*d*) or appropriated (*e*) by them ;
- (*b*) by the conversion of any buildings into houses for the working classes ;
- (*c*) by acquiring houses suitable for the purpose ;
- (*d*) by altering, enlarging, repairing or improving any houses or buildings which have, or an estate or

interest in which has, been acquired by the local authority.

Any such powers as aforesaid may, for supplying the needs of the district, be exercised outside the district of the local authority.

(2) The local authority may alter, enlarge, repair or improve any house so erected, converted, or acquired, and may fit out, furnish and supply any such house with all requisite furniture (*f*), fittings, and conveniences.

(3) It shall be the duty of a local authority for the purposes of this Part of this Act by whom any house is erected under the enactments relating to the housing of the working classes after the second day of August, nineteen hundred and thirty-five, whether with or without financial assistance from the Government, to secure—

(a) that a fair wages clause complying with the requirements of any resolution of the Commons House of Parliament for the time being in force with respect to contracts of government departments, is inserted in all contracts for the erection of the house; and

(b) except in so far as the Minister may, in any particular case, dispense with the observance of this paragraph, that the house is provided with a fixed bath in a bathroom.

(4) For the purpose of this Part of this Act, “provision of housing accommodation” (*g*) includes the provision of lodging-houses, and separate houses or cottages containing one or several tenements, and, in the case of a cottage, a cottage with a garden of not more than one acre.

NOTES TO SECTION 72

History.—Sub-sections (1) and (2) reproduce sub-sections (1) and (2) of the Housing Act, 1925, s. 57, as amended by ss. 20 (2) and 69 of the Act of 1935; sub-section (3) reproduces s. 94 of the Act of 1935; sub-section (4) reproduces sub-section (4) of s. 57 of the 1925 Act.

General note.—Structures provided under the Housing (Temporary Accommodation) Act, 1944, are also to be regarded as a mode of providing accommodation under this section. See s. 4 (1) of that Act, p. 406, *post*. As to advances to the Minister of Works in this regard from the Building Materials and Housing Fund, see s. 1 (1) (c) of the Building Materials and Housing Act, 1945, p. 415, *post*, and s. 8 of the Housing (Temporary Accommodation) Act, 1944, p. 411, *post*.

Other methods of providing housing accommodation in the post 1945 period are the requisitioning of unoccupied houses under the Defence Regulations for the purpose of housing “the inadequately housed”; the conversion of temporary wartime buildings to housing use; and the prohibition, under the Defence Regulations, without the consent of the housing authority, of the use for other than residential purposes of any accommodation which has been used for residential purposes at any time since December 31, 1938.

The position relating to these methods is mostly dealt with by circular.

The power to requisition was delegated by the Minister to the clerks of local authorities under Circular 138/45 of July 20, 1945, and has been extended by Circulars 5/46 and 141/46 of January 1 and June 28, 1946, respectively.

The powers are exercised by posting a requisitioning notice on the premises and by forwarding a similar notice by post to the owner or his agent, if known. The owner is then given 14 days to make proposals as to the occupation of the house. These proposals should be considered on their merits. Originally if the owner stated that he or his family intended to occupy the house the authority were instructed to release the premises. Now, however, if such occupation will result in serious "under occupation" of the house retention of the premises is authorised, subject to the owner being permitted to occupy such portion of the house as the authority deem reasonable.

The conversion of temporary wartime buildings is dealt with in Circular 20/46 of January 22, 1946; see p. 581, *post*. Under that circular the Minister is prepared to consider proposals by local authorities for the taking over of temporary wartime buildings for housing purposes.

Where the proposals are approved the buildings will be handed over free. If the land is in Government ownership, the Government will sell to the local authority. If it is requisitioned land, the authority are advised to acquire under s. 73, p. 194, *post*, as amended by s. 4 (2) of the Housing (Temporary Accommodation) Act, 1944, p. 406, *post*. Costs of conversion are to be borne by the local authority; but provision is made by s. 12 of the Housing (Financial and Miscellaneous Provisions) Act, 1946, (see p. 443, *post*) for the Exchequer to bear any estimated loss and take any estimated profit.

Regulation 68CA of the Defence Regulations has been amplified for the guidance of housing authorities by Circular 192/45 of November 7, 1945. Under that circular authorities are advised that only in the rarest cases should consent be given to the use for non-residential purposes of any "ordinary house or flat." The regulation provides for an appeal to the Minister within 28 days in the event of a refusal. The grounds of appeal which are suggested by the circular are that the accommodation is thoroughly unsuitable for living in; or that it is incapable of being made suitable without uneconomic expenditure of labour and materials. In most cases change of user will also require town planning consent.

These regulations are continued in force by the Supplies and Services (Transitional Powers) Act, 1945 (38 Halsbury's Statutes 629).

(a) "**Local authority.**"—See s. 1, *ante*, p. 47, and for application of this part of this Act to London, see s. 103, p. 230, *post*. A local authority may act by a committee (see s. 153, p. 282, *post*), and joint action may in suitable cases be taken by local authorities under an order of the Minister (s. 151). A local authority can exercise its powers outside its district.

(b) "**Working classes.**"—See note (f) to s. 6, p. 57, *ante*.

(c) "**Erection of houses.**"—The term "house" includes flats: see sub-s. (4). Section 80 enables a local authority, with the consent of the Minister (*inter alia*), to erect shops and any other buildings which will serve a beneficial purpose in connection with a housing estate.

(d) "**Acquired.**"—As to the acquisition of land for the purposes of this part of the Act, see ss. 73, 74 and 75.

(e) "**Appropriated.**"—A local authority may with the consent of the Minister appropriate land already belonging to them for the purposes of this part of the Act (see s. 76, p. 196, *post*).

(f) "**Furniture.**"—Note this power. It is not generally recognised that local authorities have under this Act power to provide furniture for houses.

(g) "**Housing accommodation.**"—Note that by s. 188 (3) it is provided that "For the purposes of any provisions of this Act relating to the provision of housing accommodation, the expression 'house' includes, unless the context otherwise requires, any part of a building which is occupied or intended to be occupied as a separate dwelling."

73. Power of local authority to acquire land for provision of accommodation.—A local authority (a) shall have power under this Part of this Act—

- (a) to acquire any land, including any houses or other buildings (b) thereon, as a site for the erection of houses for the working classes ;
- (b) to acquire any houses or other buildings which are, or may be made, suitable as houses for the working classes, together with any lands occupied with such houses or other buildings, or any estate or interest in such houses or other buildings and lands ;
- (c) to acquire land for the purpose of—
 - (i) the lease or sale of the land (c), under the powers conferred by this Act, with a view to the erection thereon of houses for the working classes by persons other than the local authority ;
 - (ii) the lease or sale under the powers conferred by this Act of any part of the land acquired with a view to the use thereof for purposes which in the opinion of the local authority are necessary or desirable for, or incidental to, the development of the land as a building estate, including the provision, maintenance, and improvement of houses and gardens, factories workshops, places of worship, places of recreation, and other works or buildings for, or for the convenience of, persons belonging to the working classes and other persons.

NOTES TO SECTION 73

General Note.—This section reproduces s. 58, sub-s. (1) of the Act of 1925 as amended by s. 20 (3) of the Act of 1935. The section only empowers ; the machinery for exercising the powers is contained in s. 74, which empowers a local authority to acquire land either by agreement or compulsorily. A local authority may, with the consent of the Minister, appropriate land already belonging to them (s. 76), and for any of the purposes of this Act may accept donations of land or money (s. 150). As to the powers of dealing with land acquired under this section, see s. 79. Special powers are given to trustees to sell to a local authority dwelling-houses provided by them (s. 99 (1)), and to tenants for life and corporations to sell, etc., land for housing purposes (s. 100). The power to acquire land as a site for the erection of houses under para. (a) of this section shall include a site for the erection of structures made available under s. 1 of the Housing (Temporary Accommodation) Act, 1944 (see p. 404, *post*), and s. 4 (2) of that Act, p. 406, *post*.

(a) “ **Local authority.** ”—See s. 1, p. 47, *ante*, and for application to London, s. 103, p. 230, *post*. Powers may be exercised outside the area of the authority (s. 72).

(b) **Power to acquire buildings.**—Under the repealed provision (s. 12 (1) of the 1919 Act) it was held that the power to acquire buildings on the site was incidental to the complete control of the development of the building scheme, and did not require the house to be used as a dwelling-house for the working classes, but enabled it to be purchased so as to be devoted to a beneficial purpose in connection with the requirements of the persons for whom the housing accommodation is provided (*Conron v. London County Council*, [1922] 2 Ch. 283; 38 Digest 215, 503).

(c) **Acquisition for the purpose of the lease or sale of the land.**—It will be observed that the purposes for which land forming part of a housing site may be leased or sold are very wide. A local authority has wide powers of using the land themselves under s. 80, p. 200 *post*.

74. Mode of acquisition of land for provision of accommodation.—(1) Land for the purposes of this Part of this Act (a) may be acquired by a local authority (b) by agreement, or they may be authorised to purchase land compulsorily for those purposes [by the Minister.] *by means of a compulsory purchase order made and submitted to the Minister and confirmed by him in accordance with the provisions of the First Schedule (c) to this Act.*

(2) A local authority may, with the consent of and subject to any conditions imposed by the Minister, acquire land for the purposes of this Part of this Act, notwithstanding that the land is not immediately required (d) for those purposes :

Provided that a local authority shall not be authorised to purchase any land compulsorily for those purposes unless it appears to the Minister that it is likely to be required for those purposes within ten years from the date on which he confirms the compulsory purchase order.

(3) Where land is purchased compulsorily by a local authority under this section, the compensation payable in respect thereof shall be assessed in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919 (e), subject to observance of the rules specified in the Fourth Schedule (f) to this Act.

(4) *The Provisions of the Second Schedule (g) to this Act shall have effect with respect to the validity and date of operation of a compulsory purchase order made under this section.*

NOTES TO SECTION 74

General Note.—Sub-sections (1), (3) and (4) substantially reproduce ss. 63 and 64 of the Act of 1925, as amended by s. 50 of the Act of 1930, applying the provisions of s. 11 of that Act to orders made under s. 64; s. 64 was further amended by s. 73 of the Act of 1935. Sub-section (2) replaces s. 58 (3) of the Act of 1925 as amended by s. 70 of the 1935 Act. The words in italics have been repealed and the words in square brackets added by the Fourth Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946. See p. 693, *post*.

(a) "**The purposes of this Part of this Act.**"—The purposes for which land may be acquired under this part of the Act are set out in s. 73, *ante*. As to the restrictions upon the acquisition of certain classes of land, see Part III of the Second Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, p. 683, *post*.

(b) "**Local authority.**"—See s. 1, *ante*, p. 47, and for the local authority in London for the purposes of this part of the Act, see s. 103, p. 230, *post*.

(c) "**First Schedule.**"—This Schedule no longer applies to acquisitions under Part V. Compulsory purchase orders under this part are now governed by the unified procedure set out in the First Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946; see p. 671, *post*. See also s. 1 of that Act, p. 654, *post*.

(d) "**Notwithstanding that the land is not immediately required.**"—Before 1935 land not immediately required could only be purchased by agreement. By s. 70 of the Act of 1935 power to acquire compulsorily land not immediately required was conferred on local authorities. The Minister must not confirm an order for the compulsory acquisition of such land unless it is likely to be required within the next ten years. Whether this limitation will effect its purpose remains to be seen.

(e) "**Acquisition of Land (Assessment of Compensation) Act, 1919.**" The text of this Act is printed on p. 721, *post*.

(f) "**Fourth Schedule.**"—See p. 334, *post*.

(g) "**Second Schedule.**"—The provisions as to validity and date of operation of orders are now to be found in Part IV of the First Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, p. 677, *post*. The date of operation is now the date of publication of confirmation.

75. Restrictions as to compulsory acquisition of land for purposes of Part V.—*Nothing in this Act shall authorise the compulsory acquisition for the purposes of this Part of this Act of any land which is the property of any local authority, or which is the property of statutory undertakers, having been acquired by them for the purposes of their undertaking, or which at the date of the compulsory purchase order forms part of any park, garden or pleasure ground, or is otherwise required for the amenity or convenience of any house.*

NOTES TO SECTION 75.

General Note.—This section was repealed by the Sixth Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946. See p. 693, *post*.

76. Appropriation of land for provision of accommodation.—A local authority may, with the consent of the Minister, appropriate, for the purposes of this Part of this Act, any houses or land which may be for the time being vested in them, or at their disposal, subject as respects land vested in them for educational purposes to the provisions of section one hundred and fourteen of the Education Act, 1921 (a).

NOTES TO SECTION 76

General Note.—This section reproduces s. 65 of the Housing Act, 1925.

Under s. 111 of the Municipal Corporations Act, 1882 (10 Halsbury's Statutes 610), a municipal corporation may convert land into sites for working-men's dwellings. For a general power to appropriate land, see the Local Government Act, 1933, s. 163; 26 Halsbury's Statutes 396.

Where a local authority have determined to appropriate land they may under the prescribed circumstances enter on the land (s. 145 (2), *post*).

Note that the power of appropriation given by this section can be exercised only with the consent of the Minister.

(a) **S. 114 of the Education Act, 1921.**—S. 114 of the Education Act, 1921, has been replaced by s. 90 (2) of the Education Act, 1944 (37 Halsbury's Statutes 201), and s. 163 of the Local Government Act, 1933, has been amended by that Act to substitute references to the Minister of Education for references to the Minister of Health with regard to land vested in a local education authority.

77. Sale or lease of land in New Forest for provision of accommodation.—The provision of houses under this Part of this Act shall be deemed to be a local sanitary requirement for the purpose of the New Forest (Sale of Lands for Public Purposes) Act, 1902 :

Provided that the total area of land being part of the New Forest which may be sold or let for the provision of houses shall not exceed thirty acres.

NOTE TO SECTION 77

This section reproduces s. 133 of the Act of 1925.

78. Power to acquire water rights for houses provided.—(1) A local authority or a county council may, notwithstanding anything in section three hundred and twenty-seven or section three hundred and thirty-two of the Public Health Act, 1875, but subject to the provisions of section fifty-two (a) of that Act, be authorised to abstract water from any river, stream or lake, or the feeders thereof, whether within or without the district of the local authority or the county, for the purpose of affording a water supply for houses provided under this Part of this Act, and to do all such acts as may be necessary for affording a water supply to such houses, subject to a prior obligation of affording a sufficient supply of water to any houses or agricultural holdings or other premises that may be deprived thereof by reason of such abstraction, in like manner and subject to the like restrictions as they may be authorised to acquire land for the purposes of this Part of this Act :

Provided that no local authority or county council shall be authorised under this section to abstract any water

which any local authority, corporation, company, or person are empowered by Act of Parliament to impound, take, or use for the purpose of supply within any area, or any water the abstraction of which would, in the opinion of the Minister, injuriously affect the working or management of any canal or inland navigation.

(2) Any expenses incurred by a local authority under this section in connection with any houses provided or to be provided shall be treated as part of the expenses of providing those houses.

NOTES TO SECTION 78

General Note.—This section reproduces s. 108 of the Act of 1925, as amended by the Fifth Schedule to the Act of 1930.

S. 327 of the Public Health Act, 1875, has been replaced by ss. 333 and 334 of the Public Health Act, 1936, s. 332 by s. 331 of the Public Health Act, 1936, and s. 116 (2) of the Public Health Act, 1936. See also s. 37 of the Water Act, 1945 (38 Halsbury's Statutes 524).

(a) **Public Health Act, 1875, s. 52.**—This section imposes restrictions on the construction of a waterworks by a local authority when there is a company able or willing to supply the requisite water; but see s. 12 of the Water Act, 1945 (38 Halsbury's Statutes 501).

79. Powers of dealing with land acquired or appropriated for provision of accommodation.—

(1) Where a local authority have acquired or appropriated any land for the purposes of this Part of this Act, then, without prejudice to any of their other powers under this Act, the authority may—

- (a) lay out and construct public streets or roads and open spaces on the land ;
- (b) with the consent of the Minister, sell or lease the land or part thereof to any person for the purpose and under the condition that that person will erect and maintain thereon such number of houses suitable for the working classes as may be fixed by the authority in accordance with plans approved by them and, when necessary, will lay out and construct public streets or roads and open spaces on the land, or will use the land for purposes which, in the opinion of the authority, are necessary or desirable for, or incidental to, the development of the land as a building estate in accordance with plans approved by the authority, including the provision, maintenance, and improvement of houses and gardens, factories, workshops, places of worship, places of recreation and other works or buildings

for, or for the convenience of, persons belonging to the working classes and other persons ;

- (c) with the consent of the Minister, sell the land or part thereof, or exchange the land or part thereof for land better adapted for those purposes, either with or without paying or receiving any money for equality of exchange ;
- (d) with the consent of the Minister, sell or lease any houses on the land or erected by them on the land, subject to such covenants and conditions as they may think fit to impose either in regard to the maintenance of the houses as houses for the working classes or otherwise in regard to the use of the houses, and upon any such sale they may, if they think fit, agree to the price being paid by instalments or to a payment of part thereof being secured by a mortgage of the premises.

(2) Where a local authority under this section sell or lease land, they may contribute towards the expenses of the development of the land and the laying out and construction of streets thereon, subject to the condition that the streets are dedicated to the public.

(3) Land and houses sold or leased under the provisions of this section shall be sold or leased at the best price or for the best rent that can reasonably be obtained, having regard to any condition imposed.

(4) Where a local authority acquire a house or other building which can be made suitable as a house for the working classes, or an estate or interest in such a house or other building, they shall forthwith proceed to secure the alteration, enlargement, repair or improvement of the house or building, either by themselves executing any necessary works, or by leasing or selling it to some person subject to conditions for securing that he will alter, enlarge, repair or improve it.

(5) The provisions of sections one hundred and twenty-eight to one hundred and thirty-two of the Lands Clauses Consolidation Act, 1845 (a) (which relate to the sale of superfluous land) shall not apply with respect to the sale by a local authority, under the powers conferred by this section, of any land acquired by the authority for the purposes of this Part of this Act.

(6) For the purposes of this section, " sale " includes sale in consideration of a chief rent, rentcharge or other similar periodical payment, and " sell " has a corresponding meaning.

NOTES TO SECTION 79

History.—This section reproduces s. 59 of the Act of 1925 as amended by the Housing Act, 1935, ss. 20 (5), 71, and Part II of the Sixth Schedule.

For a general power to sell or exchange land, see now the Local Government Act, 1933, s. 163. This section applies also to land acquired under s. 36 (6), p. 126, *ante*. Comparison should be made with the powers of appropriation and disposal granted under s. 19 of the Town and Country Planning Act, 1944 (see Hill's Town and Country Planning, 3rd Edition, p. 279).

(a) **Lands Clauses Consolidation Act, 1845, ss. 128–132.**—These sections are printed at p. 793, *post*.

80. Supplementary powers in connection with provision of accommodation.—(1) The powers of a local authority under this Part of this Act to provide housing accommodation, shall include a power to provide and maintain with the consent of the Minister and, if desired, jointly with any other person, in connection with any such housing accommodation, any building adapted for use as a shop, any recreation grounds, or other buildings or land which in the opinion of the Minister will serve a beneficial purpose in connection with the requirements of the persons for whom the housing accommodation is provided.

(2) The Minister, in giving his consent to the provision of any land or building under the foregoing provisions of this section, may by order apply, with any necessary modifications, to that land or building any statutory provisions which would have been applicable thereto if it had been provided under any enactment giving any local authority powers for the purpose.

(3) The powers of the London County Council and of a metropolitan borough council under this Part of this Act to provide housing accommodation shall include also a power to provide and maintain with the consent of the Minister in connection with any such housing accommodation any building or part of a building adapted for use for any commercial purpose :

Provided that the powers conferred by this subsection shall not be exercised outside the administrative county of London except with the consent of the council of the borough or district concerned.

NOTE TO SECTION 80

Sub-sections (1) and (2) reproduce s. 107 of the Act of 1925 as amended by the Act of 1930, Schedule V. Section 107 reproduced s. 11 of the Housing of the Working Classes Act, 1903. That section was held to empower a local authority, with the consent of the Minister, to provide a beerhouse on a building estate developed by the authority under the Housing Acts (*Connon*

v. London County Council, [1922] 2 Ch. 283; 38 Digest 215, 503). See reference to s. 19 of the Town and Country Planning Act, 1944, in general note to s. 79, p. 200, *ante*.

81. Execution of works in connection with housing operations by local authority outside its own area.—

(1) Where any housing operations under this Part of this Act are being carried out by a local authority outside their own area (*a*), that authority shall, subject to the approval of the Minister, have power to execute any works which are necessary for the purposes, or are incidental to the carrying out, of the operations, subject to entering into agreements with the council of the county, borough or district in which the operations are being carried out as to the terms and conditions on which any such works are to be executed.

(2) Where housing operations under this Act have been carried out by a local authority outside their own area, and for the purposes of the operations public streets (*b*) or roads have been constructed and completed by that local authority, the liability to maintain the streets or roads shall vest in the council of the borough or district in which the operations were carried out, unless that council are, or on appeal the Minister is, satisfied that the streets or roads have not been properly constructed in accordance with the plans and specifications approved by the Minister.

(3) Where housing operations under this Act have been carried out by a local authority outside their own area, and a habitation certificate from the council of the borough or district in which the houses are situate is in that borough or district required under any local Act or byelaw, such a certificate shall not be necessary in respect of any of the houses which were constructed in accordance with plans and specifications approved by the Minister.

(4) Where housing operations under this Act have been carried out by the London County Council within the area of a metropolitan borough, the liability to maintain the streets or roads shall vest in the council of that metropolitan borough, unless that council are, or on appeal the Minister is, satisfied that the streets or roads have not been properly constructed in accordance with plans and specifications approved by the Minister.

NOTES TO SECTION 81

General Note.—This section reproduces ss. 62 and 109 of the Act of 1925 as amended by the Housing Act, 1930, Schedule V.

The section is designed to avoid certain difficulties which might arise when a local authority are carrying out housing operations outside their

area. Sub-section (1) enables the authority to carry out such works as the laying of sewers or water mains in connection with housing operations upon terms.

In connection with housing operations a local authority can provide streets, and the section gives the local authority in whose area such streets are constructed an opportunity to appeal to the Minister before such streets vest in them. To prevent unsatisfactory streets vesting in them, the council in whose area they are constructed should pass a resolution declaring that the streets or roads have not been properly constructed in accordance with the plans and specifications approved by the Minister. The section also dispenses with the necessity of habitation certificates in respect of houses constructed in accordance with plans and specifications approved by the Minister.

Under s. 12 of the Town and Country Planning Act, 1944 (37 Halsbury's Statutes 440), for purposes of redevelopment under that Act, the Minister of Town and Country Planning may authorise acquisition by the local area authority instead of the promoting authority.

(a) "**Outside their own area.**"—For power to undertake housing operations outside the area of a local authority, see s. 72 (1), p. 191, *ante*, and for a limitation on this power as respects London, see s. 80 (3), p. 200, *ante*.

(b) "**Streets.**"—See definition in s. 188 (1), p. 311, *post*.

82. Adjustment of differences between local authorities as to carrying out proposals.—Where the Minister approves the proposals of a local authority in relation to the provision of houses, whether under this Act or any other Act, in the area of another local authority, any difference arising between those authorities with respect to the carrying out of the proposals may be referred by either authority to the Minister, and the Minister's decision shall be final and binding upon the authorities.

NOTE TO SECTION 82

This section reproduces s. 8 of the Housing (Financial Provisions) Act, 1924.

For the power of promoting the building of working-class houses outside a local authority's area, see s. 72, p. 191, *ante*.

Management, &c., of Local Authority's Houses.

83. Management and inspection of local authority's houses.—(1) The general management, regulation, and control of houses provided by a local authority under this Part of this Act shall be vested in and exercised by the authority, and the authority may make such reasonable charges for the tenancy or occupation of the houses as they may determine.

(2) Without prejudice to the provisions of the foregoing subsection, any such house shall be at all times open to inspection by the local authority of the district in which it is situate, or by any officer duly authorised by them (a).

NOTES TO SECTION 83

General Note.—Sub-section (1) reproduces s. 67 of the Act of 1925 as amended by the Act of 1935, Schedule VI, Part II, and sub-section (2) reproduces s. 69 of the Act of 1925.

As to byelaws for the regulation of local authorities' houses, see s. 84, *infra*, and as to the conditions which must be observed by local authorities in the management of their houses, see s. 85, *post*.

A local authority can transfer their powers of management to a Housing Management Commission under s. 87, *q.v.*, *post*.

(a) As to the penalties for obstructing an officer or other person authorised to enter houses, see s. 158, p. 287, *post*.

84. Byelaws for regulation of local authority's houses.—(1) A local authority may make byelaws for the management, use, and regulation of houses provided by them.

(2) A local authority shall as respects lodging-houses provided by them (that is to say, houses not occupied as separate dwellings) by byelaws make sufficient provision for the following purposes:—

- (a) for securing that the lodging-houses shall be under the management and control of the officers, servants, or others appointed or employed in that behalf by the local authority;
 - (b) for securing the due separation at night of men and boys above eight years old from women and girls;
 - (c) for preventing damage, disturbance, interruption, and indecent and offensive language and behaviour and nuisances;
 - (d) for determining the duties of the officers, servants and others appointed by the local authority;
- and a printed copy or sufficient abstract of the byelaws relating to lodging-houses shall be put up and at all times kept in every room therein.

(3) Any fine for the breach of any such byelaw shall be recoverable summarily and shall (subject to the provisions of section five of the Criminal Justice Administration Act, 1914) be paid to the credit of the fund or rate out of which the expenses of this Part of this Act are defrayed.

(4) The Minister shall be the confirming authority as respects byelaws made under this section.

(5) The provisions of section two hundred and seventy-seven of the Public Health (London) Act, 1936 (*a*), shall apply to byelaws under this section as respects the City of London.

(6) *The proviso to subsection (1) of section thirty-nine of the London County Council (General Powers) Act, 1934, shall have effect where the London County Council make*

byelaws under this section as it has effect in relation to the byelaws referred to in that proviso.

NOTES TO SECTION 84

General Note.—This section reproduces s. 68 of the Act of 1925. Byelaws must be made for the purposes mentioned in sub-s. (2).

Section 5 of the Criminal Justice Administration Act, 1914, directs the manner in which fines are to be allocated, various fees having to be paid before the residue goes to the fund directed by the statute. Sub-s. (6) was repealed by the Eighth Schedule to the London Government Act, 1939 (32 Halsbury's Statutes 379).

Local Government Act, 1933.—Except in London the making of byelaws is now controlled by the Local Government Act, 1933.

Local Government Act, 1933:

250. Procedure, etc., for making byelaws.—(1) The following provisions of this section shall apply to byelaws to be made by a local authority by virtue of—

- (a) this Act; or
- (b) the Public Health Acts, 1875 to 1932 (not being byelaws made under section thirteen of the Public Health Acts Amendment Act, 1890); or
- (c) any enactment in force at the date of the commencement of this Act and incorporating or applying sections one hundred and eighty-two to one hundred and eighty-six of the Public Health Act, 1875, or any of those sections, or section twenty-three of the Municipal Corporations Act, 1882, or section sixteen of the Local Government Act, 1888; or
- (d) any local Act passed before the eleventh day of August, eighteen hundred and seventy-five, being byelaws made for any purpose for which, or for a purpose similar to which, byelaws may be made under the Public Health Acts, 1875 to 1932; or
- (e) any enactment passed after the commencement of this Act and conferring on any local authority a power to make byelaws.

(2) The byelaws shall be made under the common seal of the authority, or, in the case of byelaws made by a parish council, under the hands and seals of two members of the council, and shall not have effect until they are confirmed by the confirming authority.

(3) At least one month before application for confirmation of the byelaws is made, notice of the intention to apply for confirmation shall be given in one or more local newspapers circulating in the area to which the byelaws apply.

(4) For at least one month before application for confirmation is made, a copy of the byelaws shall be deposited at the offices of the authority by whom the byelaws are made, and shall at all reasonable hours be open to public inspection without payment.

(5) The authority by whom the byelaws are made shall, on application, furnish to any person a copy of the byelaws, or of any part thereof, on payment of such sum, not exceeding sixpence for every hundred words contained in the copy, as the authority may determine.

(6) The confirming authority may confirm, or refuse to confirm, any byelaw submitted under this section for confirmation, and may fix the date on which the byelaw is to come into operation, and if no date is so fixed the byelaw shall come into operation at the expiration of one month from the date of its confirmation.

(7) A copy of the byelaws, when confirmed, shall be printed and deposited at the offices of the authority by whom the byelaws are made, and shall at all reasonable hours be open to public inspection without payment, and a copy thereof shall, on application, be furnished to any person on payment of such sum, not exceeding one shilling for every copy, as the authority may determine.

(8) The clerk of a rural district council shall send a copy of every byelaw made by the council, and confirmed, to the clerk of the parish council of every parish to which they apply, or in the case of a parish not having a separate parish council to the chairman of the parish meeting of the parish, and the clerk of the parish council or chairman of the parish meeting, as the case may be, shall cause the copy to be deposited with the public documents of the parish.

The copy so deposited shall at all reasonable hours be open to public inspection without payment.

(9) The clerk of the county council shall send a copy of every byelaw made by the council, and confirmed, to the council of every county district situate wholly or in part in the county, and the clerk of the council of a county district shall send a copy of every byelaw made by the council, and confirmed, to the council of the county in which the district is wholly or in part situate.

(10) In this section the expression "the confirming authority" means the authority or person, if any, specified in the enactment (including any enactment in this Act) under which the byelaws are made, or in any enactment incorporated therein or applied thereby, as the authority or person by whom the byelaws are to be confirmed, and in the case of byelaws made under any enactment incorporating or applying section twenty-three of the Municipal Corporations Act, 1882, or section sixteen of the Local Government Act, 1888, means the Secretary of State or, if the subject-matter of the byelaws is such that the Minister would have been the confirming authority had they been made under the last preceding section, the Minister:

Provided that, where under or by virtue of any enactment, the power of an authority or person specified as aforesaid to confirm byelaws has been transferred, the authority or person to whom that power has been transferred shall be deemed to be the authority or person specified as aforesaid.

251. Fines for offences against byelaws.—Byelaws to which the last preceding section applies may contain provisions for imposing on persons offending against the byelaws reasonable fines, recoverable on summary conviction, not exceeding such sum as may be fixed by the enactment conferring the power to make the byelaws, or, if no sum is so fixed, the sum of five pounds, and in the case of a continuing offence a further fine not exceeding such sum as may be fixed as aforesaid, or, if no sum is so fixed, the sum of forty shillings for each day during which the offence continues after conviction therefor.

252. Evidence of byelaws.—The production of a printed copy of a byelaw purporting to be made by a local authority, upon which is endorsed a certificate purporting to be signed by the clerk of the authority stating—

- (a) that the byelaw was made by the authority;
- (b) that the copy is a true copy of the byelaw;
- (c) that on a specified date the byelaw was confirmed by the authority named in the certificate or, as the case may require, was sent to the Secretary of State and has not been disallowed;
- (d) the date, if any, fixed by the confirming authority for the coming into operation of the byelaw;

shall be prima facie evidence of the facts stated in the certificate, and without proof of the handwriting or official position of any person purporting to sign a certificate in pursuance of this section.

(a) **Public Health (London) Act, 1936, s. 277.**—This section provides as follows:—

277. The following provisions shall have effect with respect to byelaws made under this Act by the common council, the overseers of the Inner Temple or Middle Temple, or the port health authority:—

- (1) All such byelaws shall be made under the common seal of the authority making the byelaws, and shall not have effect until confirmed by the confirming authority under the last foregoing section;
- (2) at least one month before application for the confirmation of the byelaws is made, notice of the intention to apply for confirmation

shall be given in one or more newspapers circulating in the area to which the byelaws relate;

- (3) for at least one month before application for confirmation is made, a copy of the byelaws shall be deposited at the offices of the authority by whom the byelaws are made and shall be open to inspection, during office hours, by any ratepayer of the area to which they relate, without payment;
- (4) the clerk of the authority shall, on the application of any such ratepayer as aforesaid, furnish him with a copy of the byelaws, or of any part thereof, on payment of sixpence for every one hundred words contained in the copy;
- (5) a copy of the byelaws, when confirmed, shall be printed and hung up in the offices of the authority by whom they were made, and a copy thereof shall, on demand, be delivered to any such ratepayer as aforesaid;
- (6) a copy of the byelaws, signed and certified by the clerk of the authority by whom they were made to be a true copy of the byelaws as confirmed, shall, until the contrary is proved, be evidence of the due making and confirmation of these byelaws; and
- (7) the byelaws may provide that offenders under the byelaws shall be liable to such reasonable fines as may be specified therein, not exceeding, in respect of each offence, five pounds and, in the case of a continuing offence, forty shillings for each day during which the offence continues after written notice of the offence has been served by the authority on the offender:

Provided that, in the case of byelaws made by the common council for regulating the business of a vendor of fried fish, or of a fish curer, or of a rag and bone dealer, the council may charge a sum, not exceeding sixpence, for every copy of the byelaws so delivered.

85. Conditions to be observed in management of local authority's houses.—(1) A local authority shall, in relation to all houses and dwellings in respect of which they are required by section one hundred and twenty-eight of this Act to keep a Housing Revenue Account, observe the requirements specified in the following provisions of this section.

(2) The authority shall secure that in the selection of their tenants a reasonable preference is given to persons who are occupying insanitary (a) or overcrowded houses (b), have large families (c) or are living under unsatisfactory housing conditions.

(3) The authority shall secure that a number of houses or dwellings equal to the number of those in respect of which—

- (a) the authority have received assistance under section one of the Housing (Rural Workers) Act, 1926 (d); or
- (b) the Minister has undertaken to pay a contribution to the authority under subsection (2A) of section four of the Housing (Rural Workers) Act, 1926;

are reserved for such persons as are mentioned in paragraph (a) of subsection (1) of section three of that Act (e), except in so far as the demand for housing accommodation in the district of the authority on the part of such persons can be satisfied without such reservation.

(4) The authority shall secure that a number of houses equal to the number of those in respect of which the county council have undertaken to make a contribution to the authority under subsection (2) of section one hundred and fifteen of this Act, or are required by subsection (3) of that section to make a contribution to the authority, are reserved for members of the agricultural population (f), except in so far as the demand for housing accommodation in the district of the authority on the part of members of the agricultural population can be satisfied without such reservation.

(5) In fixing rents (g) the authority shall take into consideration the rents ordinarily payable by persons of the working classes in the locality, but may grant to any tenant such rebates from rent, subject to such terms and conditions, as they may think fit (h).

(6) The authority shall from time to time review rents and make such changes, either of rents generally or of particular rents, and rebates (if any) as circumstances may require (j).

(7) (k) The authority shall make it a term of every letting that the tenant shall not assign, sub-let or otherwise part with the possession of the premises, or any part thereof, except with the consent in writing of the authority, and shall not give such consent unless it is shown to their satisfaction that no payment other than a rent which is in their opinion a reasonable rent has been, or is to be, received by the tenant in consideration of the assignment, sub-letting or other transaction.

(8) (l) The conditions contained in section three of the Housing (Rural Workers) Act, 1926, shall not have effect in relation to dwellings to which the requirements of this section apply.

NOTES TO SECTION 85

This section reproduces with the necessary amendments ss. 51 and 52 (2) of the Housing Act, 1935.

General Note.—This and the succeeding section consolidate the provisions contained in the various Housing Acts relating to the conditions which must be observed by local authorities in respect of dwelling-houses and dwellings provided by them.

These conditions apply to :

- (1) Authorities who are local authorities for the purposes of Part V of this Act.
- (2) All dwelling-houses and dwellings in respect of which such authorities are required to keep a Housing Revenue Account (s. 128, p. 256, *post*).

The following are the conditions with which such authorities must comply :

Preferred tenants.—The authority must secure that in the selection of their tenants a reasonable preference is given to persons who—

- (a) are occupying insanitary or overcrowded houses ;
- (b) have large families ;
- (c) are living under unsatisfactory housing conditions.

Housing of agricultural workers, etc.—Except in so far as the demand for housing accommodation in the authority's district can be otherwise satisfied, the authority must secure the reservation for such persons as are mentioned in s. 3 (1) (a) of the Act of 1926 of a number of dwelling-houses or dwellings equal to the number of those in respect of which—

- (a) the authority have received assistance under s. 1 of the Act of 1926 (and see *ibid.*, s. 4) ;
- (b) the Minister has undertaken to pay a contribution under sub-s. 2A of s. 4 of the Act of 1926.

They must also secure that a number of dwelling-houses equal to the number in respect of which the county council have undertaken to make a contribution to the authority under

- (a) s. 115 (2) of this Act, p. 247, *post*, and
- (b) s. 115 (3),

are reserved for members of the agricultural population except in so far as such accommodation can be satisfied without such reservation.

Rents.—In fixing rents of such houses or dwellings the authority must take into consideration the rents ordinarily paid by persons of the working classes. They can, however, grant rebates from rents subject to such terms and conditions as they think fit. They must also from time to time review rents and make changes as circumstances may require—

- (a) of rents generally ; or
- (b) of particular rents and rebates (if any).

Sub-letting, etc., of provided houses.—The authority must make it a term of every letting

that the tenant shall not assign, sub-let or otherwise part with the possession of the premises, or any part thereof, except with the consent in writing of the authority.

Such consent shall not be given unless it is shown to the satisfaction of the authority that no payment other than a rent which is in their opinion reasonable has been or is to be received by the tenant in consideration of the assignment, sub-letting or other transaction.

For powers to act in default, see ss. 169–175, pp. 294 *et seq.*

(a) **“Insanitary house.”**—The Acts contain no definition of an insanitary house, but s. 188 (1) contains a definition of “sanitary defects” which is not, however, exhaustive (see p. 318, *post*). The existence of sanitary defects is one of the elements which make a house unfit for human habitation (see s. 188 (4)). The requirement will, therefore, generally apply to tenants of houses in respect of which a clearance order under s. 25 or a demolition order under s. 11 of this Act is made, and to tenants removed from houses in a re-development area which are indicated as unfit for human habitation and incapable at reasonable expense of being rendered so fit (s. 34).

(b) **“Overcrowded house.”**—For the definition of overcrowded houses, see s. 58 (p. 170, *ante*).

(c) This reproduces para. (f) of sub-s. (1) of s. 3 of the Act of 1924 (repealed).

(d) **Housing (Rural Workers) Act, 1926, s. 1.**—Local authorities for the purposes of the Act of 1926 are defined by s. 5 of that Act. The Housing

(Rural Workers) Acts, 1926 to 1942, expired on September 30, 1945, and are not reprinted in this edition. For the text of the 1926 Act, see 13 Halsbury's Statutes 1162.

(e) Section 3 (1) (a) provides "The dwelling shall not be occupied except by a person, whether as owner or tenant, whose income is, in the opinion of the local authority, such that he would not ordinarily pay a rent in excess of that paid by agricultural workers in the district, or by an agricultural worker or employee of substantially the same economic condition employed by the person who is rated in respect of the dwelling."

(f) "**Agricultural population.**"—The definition of "agricultural population" is contained in s. 115 (2), p. 247, *post*. As to the duty of local authorities to reserve housing accommodation for the agricultural population, see also s. 2 (2) of the Housing (Financial Provisions) Act, 1938, p. 390, *post*, and s. 19 of the Housing (Financial and Miscellaneous Provisions) Act, 1946, p. 454, *post*.

(g) "**Rents.**"—The provision as to rents takes the place of various conditions in previous Acts now repealed. It seems that differential rents, even if this involves increasing some rents, are legal, and even if the differences are based on a means test (*Leeds Corporation v. Jenkinson*, [1935] 1 K. B. 168; 98 J. P. 447; Digest Supp.).

(h) These words are reproduced from s. 27 (1) (c) of the Act of 1930.

(j) This provision was originally inserted in the Act of 1935. Section 30 of the Act of 1930 repealed by the 1935 Act, s. 99 and Part I of the Seventh Schedule made provision for the adjustment of rents in certain circumstances.

(k) **Sub-section 7.**—This sub-section is designed to prevent tenants sub-letting or otherwise parting with the possession of the premises or a part of them at excessive rents. The policy is the same as that embodied in the Rent and Mortgage Interest Restrictions (Amendment) Act, 1933, s. 4. (26 Halsbury's Statutes 272).

(l) **Sub-section 8.**—The effect of this sub-section is that dwelling-houses owned by local authorities for which a grant is made under the Act are not subject to the conditions contained in s. 3 of the Act of 1926, but owners who receive assistance by way of grant are still subject to them.

86. Conditions on sale of local authority's houses.

—If any house, building, land or dwelling in respect of which a local authority are required by section one hundred and twenty-eight of this Act to keep a Housing Revenue Account is sold by the authority with the consent of the Minister, he may in giving consent impose such conditions, and may reduce the amount of any Exchequer contribution (a) payable to the authority, or of any of the contributions referred to in the Eighth Schedule (b) to this Act payable by the authority, as he thinks just.

NOTES TO SECTION 86

This section reproduces s. 53 of the Act of 1935, which consolidated the law relating to the sale of dwelling-houses, buildings, land or dwellings in respect of which a Housing Revenue Account is required to be kept by s. 128 (p. 256, *post*). Such properties can be sold only with the consent of the Minister.

(a) "**Exchequer contributions.**"—As to these see Part VI and the Sixth and Seventh Schedules.

(b) "**Eighth Schedule.**"—See p. 341, *post*. References to the Eighth Schedule shall include a reference to s. 6 of the Housing (Financial Provisions) Act, 1938, p. 393, *post*; and shall include a reference to the annual rate fund contributions under the Housing (Financial and Miscellaneous Provisions) Act, 1946 (see Third Schedule to that Act, p. 464, *post*).

87. Power to establish Housing Management Commissions.—(1) Where it appears to a local authority to be expedient that a Housing Management Commission should be established with a view to the transfer (a) to and the performance by the Commission of all or any of the functions of the authority under the enactments relating to housing with respect to the management, regulation and control (b), and the repair and maintenance (c), of working-class houses and other buildings (d) or land provided in connection with such houses, the authority shall prepare and submit to the Minister a scheme (e) making provision for the establishment of the Commission, and for the incorporation thereof, under the name of the Housing Management Commission with the addition of the name of the district of the local authority, with perpetual succession and a common seal, and power to hold land for the purposes of their constitution without licence in mortmain.

(2) A scheme submitted as aforesaid may make provision with respect to the constitution, procedure and functions of the Commission and in particular, but without prejudice to the generality of the foregoing words, may make provision—

- (a) as to the mode of appointment and term of office of the members of the Commission (f);
- (b) (g) as to the payment of remuneration out of funds under the control of the Commission to the chairman of the Commission, where he is not a member of the local authority or of any committee or sub-committee of the local authority or a representative of the local authority on a joint committee appointed by agreement between them and another body;
- (c) as to the employment by the Commission of officers and staff and the remuneration out of funds under the control of the Commission and the superannuation of persons so employed;
- (d) as to the financial relations between the local authority and the Commission;
- (e) for conferring on the local authority power to defray temporarily on behalf of the Commission any of their expenses;

- (f) for making the accounts of the Commission subject to audit by a district auditor or otherwise ;
- (g) for determining what property is to be vested in the Commission, and for what estate or interest, and whether by way of transfer of the estate or interest of the local authority or of the creation of a lesser estate or interest or otherwise, and the manner in which that vesting is to be effected, and as to the re-vesting of property in the local authority in the event of the dissolution (*h*) of the Commission or in other circumstances ; and
- (h) for imposing on the Commission the duty to consult the Central Housing Advisory Committee (*i*) as respects any matter specified in the scheme.

(3) The provisions of section one hundred and fifty of, and the Fourth Schedule to, the Local Government Act, 1933 (which relate to the transfer and compensation of officers of a local authority affected by a scheme or order under Part VI of that Act), shall have effect in relation to a scheme submitted under this section as they have effect in relation to a scheme or order under the said Part VI, and as if references therein to a local authority included references to the Commission.

(4) A scheme submitted under this section may provide for the application with necessary modifications of the enactments (including schemes) governing the superannuation of persons employed by the local authority for the purposes of the superannuation of persons employed by the Commission as if they had been persons employed by the local authority and as if employment by the Commission had been employment by the local authority.

(5) The Minister may approve a scheme submitted to him under this section with or without modifications, and any such scheme when approved by the Minister shall have effect as from such date as may be specified therein and may be amended by a further scheme (*j*) submitted by the local authority and approved by the Minister.

(6) Unless the scheme makes provision for making the accounts of the Commission subject to audit by a district auditor, no person shall be qualified to be appointed as auditor of those accounts unless he is a member of one or more of the following bodies, namely :—

The Institute of Chartered Accountants in England and Wales ;

The Society of Incorporated Accountants and Auditors ;

The Society of Accountants in Edinburgh ;

The Institute of Accountants and Actuaries in Glasgow ;
 The Society of Accountants in Aberdeen ;
 The London Association of Certified Accountants,
 Limited ;
 The Corporation of Accountants, Limited.

NOTES TO SECTION 87

General Note.—This section reproduces s. 25 of the Act of 1935. It confers power on local authorities with the approval of the Minister to establish a commission to be known as a Housing Management Commission and to transfer to such commission certain of their housing functions and to vest property in the commission. The functions which may be transferred are all or any of the following :

- (a) The management, regulation and control of working-class houses.
- (b) The repair and maintenance of working-class houses.
- (c) The management, regulation and control of other buildings or land provided in connection with such houses.
- (d) The repair and maintenance of other buildings or land provided in connection with such houses.

The functions which may be transferred are limited to those specified in the section. It appears that such matters as the provision of houses, the clearance of unfit houses and re-development cannot be transferred.

The establishment of a housing management commission must be effected by a resolution of the authority to prepare a scheme.

The scheme proposed by the authority must make provision—

- (i) for the establishment of the commission ;
- (ii) for the incorporation of the commission under the name of the Housing Management Commission with the addition of the name of the district of the local authority, with perpetual succession and a common seal, and power to hold land for the purposes of their constitution without licence in mortmain.

It may also provide for—

- (i) the constitution ;
- (ii) the procedure ;
- (iii) the functions

of the commission. Sub-section (2) sets out certain matters for which provision may be made in the scheme.

A scheme so made by the local authority must be submitted to the Minister, who may approve it with or without modifications. The scheme when approved by the Minister has effect from a date specified in it. A scheme when so approved cannot be amended by a resolution of the authority. It can only be amended by a further scheme submitted by the authority and approved by the Minister. By s. 129 (2), p. 259, *post*, a housing management commission will be under a duty to keep a housing revenue account in accordance with the provisions of ss. 128 and 129.

(a) “**Transfer.**”—Note that the section uses the words “the transfer of,” not the delegation of. Powers which have merely been “delegated” may be resumed at any time, but not so powers which have been transferred. Once powers have been transferred responsibility for the exercise of these powers would appear to cease. The effect of this section appears to be that if a local authority cause a commission to be established and transfer functions to that commission, they cannot resume these functions nor can they dissolve the commission. Where the legislature intends that functions may be relinquished in favour of some other body for a specified period it makes clear provision to that effect: *cf.*, for example, the Town and Country Planning Act, 1932, s. 3 (25 Halsbury’s Statutes 473). Provision, however, may be made for the re-vesting of property vested in the commission in the event of its

dissolution or in other circumstances. The words in italics would, it is thought, include the re-vesting of the property upon notice by the local authority provided that the scheme contained a provision to this effect.

(b) **Management, etc., of houses.**—The management, regulation and control of houses provided by a local authority are vested in the authority by s. 83 of the Act (p. 202, *ante*). As to the conditions which local authorities are required to observe in connection with houses provided by them, see s. 85, p. 206, *ante*.

(c) **"Repair and maintenance."**—By s. 131, p. 262, *post*, local authorities are required to keep a housing repairs account in respect of houses provided by them and to transfer a certain minimum percentage of the annual rent (exclusive of rates and water charges) to that account.

(d) **"Other buildings."**—For the power to provide other buildings or land in connection with housing schemes, see s. 80, p. 200, *ante*.

(e) **"Scheme."**—A draft scheme is not contained in these notes because the Ministry will doubtless advise local authorities who desire to establish a commission under this section upon the contents of the scheme and offer guidance as to its preparation.

The following are some of the points which arise in connection with schemes:

- (i) Care must be taken to ensure that the commission observe conditions in respect of subsidy houses or the subsidy may be cut off.
- (ii) The local authority may find it convenient to reserve the right to nominate tenants for vacant houses, if the Minister will approve of this being done.
- (iii) If the property is leased to the commission then the local authority can still exercise supervision over the repair and maintenance of the property as lessors.

It is submitted that a scheme made under this section must comply with the section and that local authorities cannot transfer to a housing management commission any power which they are not by the section expressly empowered to so transfer. The Second Schedule, which limits and defines the right of appeal in the case of clearance order, appears to have no application to this section. It must be noted that there is no express provision which makes a scheme approved by the Minister under this section to take effect as if enacted in the Act.

(f) **"Members of the Commission."**—There is no direction in the Act as to the personnel of the commission, but it appears from para. (b) that members of a local authority are not debarred from membership thereof.

(g) **Paragraph (b).**—Note that the provision as to the remuneration of the chairman of the commission does not apply to a chairman who is (i) a member of the local authority, (ii) a member of any committee or sub-committee, or (iii) a representative of the local authority on a joint committee appointed by agreement between them and another body. Under (ii) co-opted members and under (iii) a representative who is not a member of either the local authority or a committee or sub-committee thereof, would be debarred from receiving remuneration.

(h) **"In the event of dissolution."**—There is no express power to rescind or revoke a scheme conferred on either the Minister or the local authority by the section. Nor is there an implied power of rescission or revocation (Interpretation Act, 1889, s. 32 (3)). It appears that the scheme itself may make provision for its own demise in certain events.

(i) **"Central Housing Advisory Committee."**—It is to be noted that the commission has no duty to consult the Central Housing Advisory Committee on the scheme as such but only on such matters as are specified in the scheme. No doubt the Minister will advise local authorities on what matters should be so specified.

For Central Housing Advisory Committee, see s. 135, p. 267, *post*.

(j) "**May be amended by a further scheme.**"—The sub-section provides machinery for amending the scheme but no machinery for rescinding or revoking it.

Special Provisions as to Rural Districts.

88. Duty of county council in respect of housing conditions in rural districts.—(1) It shall be the duty of the council of every county, as respects each rural district within the county, to have constant regard to the housing conditions of persons of the working classes, the extent to which overcrowding or other unsatisfactory housing conditions exist and the sufficiency of the steps which the council of the district have taken, or are proposing to take, to remedy those conditions and to provide further housing accommodation.

(2) The council of every rural district shall at such intervals, not being in any case less than one year, as the county council may direct, furnish to that council such information with regard to the matters mentioned in the foregoing subsection as the county council may reasonably require for the purpose of enabling them to carry out their duties thereunder.

NOTES TO SECTION 88

This section reproduces s. 32 of the Act of 1930.

Duties of county council under this section.—A single but continuing duty is imposed by this section, namely, the duty to have constant regard to the housing conditions of persons of the working classes who live in rural districts within the county, in particular to the extent to which overcrowding or other unsatisfactory conditions exist, and the sufficiency of the steps taken, or proposed to be taken by such rural district council to remedy these conditions and to provide further housing accommodation.

For the powers of the county council and the Minister of Health to act in the event of default by rural district council, see s. 169, p. 294, *post*.

For the powers of the Minister of Health in the event of default by the council in the exercise of transferred powers under s. 169, see s. 170.

89. Agreements by county council for assisting rural district councils in provision of accommodation.—(1) The council of any county may, for the purpose of assisting the council of any rural district within the county in the performance of their duties under this Part of this Act (a), agree with the district council for the exercise by the county council of all or any of the powers of the district council under this Part.

(2) An agreement made under this section may contain such provisions with regard to the expenses to be incurred by the county council, including the raising of loans to meet those expenses, and with regard to the vesting in the

district council of any houses built by the county council under the agreement and such other incidental or consequential provisions as the councils think proper; and, for the purposes of any such agreement and so far as it extends, the county council shall be deemed to be a local authority for the purposes of this Part and section one hundred and five of this Act and of section twenty-seven of the Housing Act, 1930 (b).

(3) Subject to the provisions of any such agreement as aforesaid, Government contributions (c) shall be payable under section one hundred and five of this Act to that one of the councils by which re-housing accommodation available for displaced persons is provided, notwithstanding that the operations in consequence of which those persons were displaced were initiated or carried out by the other council.

NOTES TO SECTION 89

This section reproduces with verbal amendments s. 33 of the Act of 1930.

General Note.—This section empowers the council of any county to enter into agreements with any rural district council within the county for the exercise of all or any of the powers of the rural district council under this Part of this Act (sub-s. (1)). See also s. 1 (1), p. 47, *ante*. Such an arrangement may contain provisions with regard to the expenses incurred by the county council and with regard to the vesting in the district council of houses built by the county council (sub-s. (2)). Government contributions under s. 105 of *this* Act and ss. 1 and 2 of the Housing (Financial Provisions) Act, 1938, p. 386, *post*, and ss. 1 to 6 of the Housing (Financial and Miscellaneous Provisions) Act, 1946, pp. 429 *et seq.*, *post* (see Third Schedule to that Act, p. 464, *post*) are to be paid (subject to the provisions of any such agreement) to that one of the councils by whom actual re-housing accommodation is provided notwithstanding that the operations in consequence of which persons were displaced were initiated or carried out by the other council (sub-s. (3)).

If the county council are unwilling to give this assistance and the Minister is satisfied that the financial resources of a rural council are insufficient, he may, on request by the rural council, purchase land himself and erect houses thereon on behalf and at the expense of the rural council (Housing (Rural Authorities) Act, 1931, s. 2, p. 382, *post*).

(a) **Duties of rural district council under this Part of this Act.**—This Part of this Act deals with the provision of houses for the working classes by local authorities (including rural district councils), see p. 191, *et seq.*, *ante*. It will be noted that s. 71 of this Act imposes on every local authority the duty to consider the needs of their area with respect to the provision of housing accommodation for persons of the working classes and to prepare and submit to the Minister of Health proposals for the provision of such accommodation.

(b) **S. 105.**—References to s. 105 are to include references to ss. 1 and 2 of the Housing (Financial Provisions) Act, 1938, p. 386, *post*, and the provisions relating to annual exchequer contributions contained in the Housing (Financial and Miscellaneous Provisions) Act, 1946, p. 429, *post*. See reference in general note and note (a), *supra*. S. 27 of the Housing Act, 1930, was repealed so far as regards houses provided by a local authority by the Fifth Schedule of the Housing Act, 1935. It is presumably still effective where an Exchequer contribution is payable subject to the undertaking given in accordance with s. 26 of the Act of 1930. The text of s. 27 is not reprinted in this edition.

(c) **Government contributions.**—See s. 105, p. 235, *post*, ss. 1 and 2 of the Housing (Financial Provisions) Act, 1938, p. 386, *post*; and for current contributions see ss. 1 to 3 and 6 and 7 of the Housing (Financial and Miscellaneous Provisions), Act, 1946, pp. 429 *et seq.* and 435 *et seq.*, *post*.

Power of certain authorities to assist financially the erection of houses, improvement of housing accommodation, &c.

90. Loans by local authorities for the improvement of housing accommodation.—(1) If the owner of a house or building applies to the local authority of the district in which the house or building is situated for assistance for the purpose of carrying out works for the reconstruction, enlargement, or improvement thereof, and the local authority are of opinion that after the works are carried out the house or building would be in all respects fit for habitation as a house or as houses for the working classes, and that the circumstances of the district in regard to housing accommodation are such as to make it desirable that the works should be carried out, the local authority may lend to the owner the whole or any part of such sum as may be necessary to defray the cost of the works, and any expenses incidental thereto :

Provided that the loan shall not exceed one-half of the estimated value of the property mortgaged, unless some additional or collateral security is given sufficient to secure the excess.

(2) Before the works are commenced, full particulars of the works and, where required by the local authority, plans and specifications thereof shall be submitted to the local authority for their approval, and before any loan is made the authority shall satisfy themselves that the works in respect of which the loan is to be made have been carried out in a satisfactory and efficient manner.

(3) For the purpose of this section, "owner" means any person whose interest, or any number of persons whose combined interests, constitutes or constitute either an estate of fee simple in possession, or a leasehold interest in possession for a term of years absolute whereof a period of not less than ten years in excess of the period fixed for the repayment of the loan remains unexpired at the date of the loan.

NOTE TO SECTION 90

This section reproduces s. 91 of the Housing Act, 1925, which in turn reproduced s. 22 of the Housing, Town Planning, etc. Act, 1919. Note that loans under it can be made only for the purpose of assisting the reconstruction, enlargement or improvement of buildings. Power is given by the next section to assist in the construction of new buildings.

91. Power of local authorities to make advances, &c., for the purposes of increasing housing accommodation.—(1) A local authority for the purposes of this Part of this Act (a), or a county council, may, subject to such conditions as may be approved by the Minister—

(a) advance money, subject to the provisions herein-after contained, to persons or bodies of persons—

(i) constructing or altering or undertaking to construct or alter houses ; or

(ii) carrying out or undertaking to carry out repairs to any house in any case where the authority or council consider that having regard to the cost of those repairs, or the financial position of the applicant, it is reasonable to give to him such assistance ; or

(iii) acquiring or undertaking to acquire houses the construction of which was begun after the twenty-fifth day of April, nineteen hundred and twenty-three ;

whether such houses are within or without the district of the authority or council ;

(b) undertake to guarantee the repayment to a society incorporated under the Building Societies Acts, 1874 to 1894, or the Industrial and Provident Societies Acts, 1893 to 1928, of any advances, with interest thereon, made by the society to any of its members for the purpose of enabling them to build houses or acquire houses, whether within or without the district of the authority or council, being houses the construction of which was commenced after the twenty-fifth day of April, nineteen hundred and twenty-three or, in the case of an undertaking to be given by the London County Council, after the thirty-first day of July, nineteen hundred and nineteen (b) ;

(c) in the case of the conversion of a house into two or more separate and self-contained flats, undertake that, if the aggregate rateable value of the flats exceeds the rateable value of the house before conversion, they will, during such period not exceeding twenty years as is specified in the undertaking, refund to the person by whom the rates on any such flat are payable the whole or any part of the difference between the rates paid by him and the rates which would be payable if the rateable value of the flat were reduced by such an amount

that the reduced value would bear to the rateable value the same proportion as the rateable value of the house before conversion bears to the aggregate rateable value of the flats (c).

(2) The local authority or county council before granting any such assistance shall satisfy themselves that the houses or flats in respect of which assistance is to be given, will, when the building, alteration, repair or conversion has been completed, be in all respects fit for human habitation, and in particular that the superficial area of any such house or flat will not be less than—

(a) in the case of a two-storied house, six hundred and twenty superficial feet ; or

(b) in the case of a structurally separate and self-contained flat or a one-storied house, five hundred and fifty superficial feet ;

those measurements being calculated in accordance with the rules made by the Minister :

Provided that, if the authority or council in any particular case satisfy the Minister that, having regard to special circumstances existing in their area, there is a need for houses of smaller dimensions, the minimum measurement may be reduced, as respects such limited number of houses for that area and subject to such conditions as the Minister may determine, in the case of a two-storied house, to five hundred and seventy and, in the case of a flat or a one-storied house, to five hundred, superficial feet.

(3) Any such advance as aforesaid shall be subject to the following conditions :—

(a) the advance with interest thereon shall be secured by mortgage, and the advance shall not exceed ninety per cent. of the value of the interest of the mortgagor in the property, and the mortgage deed may provide for repayment being made either by instalments of principal or by an annuity of principal and interest combined, so, however, that, in the event of any of the conditions subject to which the advance is made not being complied with, the balance for the time being unpaid shall become repayable on demand by the local authority or council ; and

(b) the advance may be made by instalments from time to time as the building, alteration or repair of the house progresses, so, however, that the total of the advance does not at any time before the com-

- pletion of the house exceed fifty per cent. of the value of the work done up to that time on the construction, or on works incidental to the construction, of the house, including the value of the interest of the mortgagor in the site thereof; and
- (c) the advance shall not be made except after a valuation duly made on behalf of the authority or council; and
 - (d) where the interest upon which the advance is to be made is a leasehold interest, no advance shall be made unless that interest is a term of years absolute whereof a period of not less than ten years in excess of the period fixed for the repayment of the advance remains unexpired at the date of the advance.

In this subsection the expression "the value of the interest of the mortgagor" means, in relation to an advance secured by a mortgage created by a person who acts in that behalf in a fiduciary capacity and who has also a beneficial interest in the property, the value of the interest which that person has power to mortgage by virtue of his fiduciary capacity.

(4) An advance or guarantee under this section shall not be made or given if the estimated value of the fee simple in possession free from incumbrances of the house in respect of which the advance or guarantee is to be made or given exceeds [fifteen] *eight* hundred pounds, but such an advance or guarantee may be made or given in addition to assistance given by the local authority under any other Act in respect of the same house.

In the case of an advance or guarantee for the construction of one or more structurally separate and self-contained flats, the estimated value for the purposes of the foregoing limitation shall as respects any flat be the estimated value of the flat.

(5) An advance made under this section shall, for the purposes of this section, be deemed to be made on the date on which the mortgage securing the advance is executed.

(6) Any expenses incurred by a county council under this section shall be defrayed as expenses for general county purposes.

NOTES TO SECTION 91

This section reproduces s. 92 of the Act of 1925 as amended by s. 47 of the Act of 1930, and as further amended by ss. 76, 98 and Schedule VI, Part II of the Act of 1935. As originally enacted the limiting value shewn in sub-s. (4) was £800. This was amended to the amount of £1,500 (shewn in square brackets) by s. 6 of the Building Materials and Housing Act, 1945.

See p. 419, *post*. As to postponement of instalments payable by persons called out on military service see Ministry of Health Circular 1839/39. A guarantee given under sub-s. (1) (b) may be taken into account with respect to advances made by building societies, see s. 2 and the Schedule to the Building Societies Act, 1939 (32 Halsbury's Statutes 94, 105).

(a) "**Local authority for the purposes of this Part of this Act.**"—Note that by s. 103 (2), p. 230, *post*, the London County Council is exclusively the local authority in the County of London (outside the City) for the purposes of this provision. The section confers also powers on counties who are not within the provisions of s. 1 local authorities for the purposes of this Act, see p. 47, *ante*.

(b) The Minister concluded an agreement with the Building Societies' Association with regard to guarantees under this section. A summary of the arrangements agreed upon was contained in Circular 555, dated January 30th, 1925, see p. 559, *post*.

(c) A county council cannot borrow for the purposes of this paragraph, see s. 120 (1), p. 252, *post*.

92. Loans by Public Works Loan Commissioners to companies, &c.—(1) The Public Works Loan Commissioners (a) may, subject to the provisions of this section, lend money to any such person as is hereafter mentioned for the purpose of constructing or improving, or facilitating or encouraging the construction or improvement of, houses for the working classes, and, in the case of a housing association (b), for the purchase of houses which may be made suitable as houses for the working classes and for the purchase and development of land, and any such person may borrow from the Public Works Loan Commissioners such money as may be required for the purposes aforesaid.

(2) The persons to whom money may be so lent and who may so borrow are—

- (a) any railway company (c) or dock or harbour company, or any housing association or any other company, society, or association established for the purpose of constructing or improving, or of facilitating or encouraging the construction or improvement of, houses for the working classes, or for trading or manufacturing purposes, in the course of whose business, or in the discharge of whose duties, persons of the working classes are employed; and
- (b) any person entitled to any land for an estate in fee simple absolute in possession, or for any term of years absolute whereof not less than fifty years for the time being remain unexpired.

(3) A loan for any of the purposes specified in subsection (1) of this section shall be secured with interest

thereon by mortgage of the land and houses in respect of which that purpose is to be carried out, and of such other lands and houses (being houses which have been constructed or made suitable for the working classes by the company, association, society, or person receiving the loan), if any, as may be offered as security for the loan.

(4) Any such loan may be made whether the borrower has or has not power to borrow independently of this Act ; but nothing in this Act shall affect any regulation, statutory or otherwise, whereby any company may be restricted from borrowing until a definite portion of capital is subscribed for, taken, or paid up.

(5) The following conditions shall apply in the case of any such loan :—

(a) the period for repayment shall not exceed forty years :

(b) no money shall be lent on mortgage of any land or houses, unless the estate therein proposed to be mortgaged is either an estate in fee simple absolute in possession or an estate for a term of years absolute whereof not less than fifty years are unexpired at the date of the loan :

(c) the money lent shall not exceed such proportion as is hereinafter authorised of the value, to be ascertained to the satisfaction of the Public Works Loan Commissioners, of the estate or interest in the land or houses proposed to be mortgaged in pursuance of subsection (3) of this section, but loans may be made by instalments from time to time as the building of houses or other work on land so mortgaged progresses, so, however, that the total amount lent does not at any time exceed the amount aforesaid ; and a mortgage may be accordingly made to secure such loans so to be made from time to time :

Provided that, where a loan is made under this section to a housing association for the purpose of carrying out a scheme for the provision of houses for the working classes approved by the Minister,—

(i) the maximum period for the repayment of the loan shall be fifty instead of forty years :

(ii) money may be lent on the mortgage of an estate for a term of years absolute whereof a period not less than ten years in excess of the period fixed for the repayment of the sums advanced remains unexpired at the date of the loan.

(6) The proportion of such value as aforesaid authorised for the purpose of the loan shall be three-fourths :

Provided that—

(a) if the loan is to be made to a housing association and payment of the principal of and interest on the loan is guaranteed by a local authority for the purposes of this Part of this Act, or by a county council, the said proportion shall be nine-tenths ;

(b) in any other case, if the loan exceeds two-thirds of such value as aforesaid, the Public Works Loan Commissioners shall require, in addition to such a mortgage as is mentioned in subsection (3) of this section, such further security as they may think fit.

(7) Any loan made by the Public Works Loan Commissioners in pursuance of this section, or to borrowers other than local authorities for the provision of labourers' dwellings under the Public Works Loans Act, 1875, or any Act amending that Act, shall bear interest at such rate not less than three pounds two shillings and sixpence per cent. per annum as the Treasury may from time to time authorise as being in their opinion sufficient to enable the loan to be made without loss to the Exchequer.

(8) For the purpose of constructing or improving, or facilitating or encouraging the construction or improvement of, houses for the working classes, every such company, association or society as aforesaid is hereby authorised to purchase, take, and hold land, and if not already a body corporate shall, for the purpose of holding land acquired under this section and of suing and being sued in respect thereof, be nevertheless deemed a body corporate with perpetual succession.

(9) A housing association shall have power, notwithstanding anything in its rules or constitution prohibiting the payment of any interest on loan capital at a rate exceeding six per cent. per annum, to raise money on loan at a rate of interest not exceeding the rate of interest for the time being prescribed by the Treasury for the purposes of this Act with respect to housing associations.

NOTES TO SECTION 92

This section reproduces s. 90 of the Act of 1925, as amended by ss. 26 and 29 (3) and (4) of the Act of 1935.

(a) "**Public Works Loan Commissioners.**"—For the constitution of this body see the Public Works Loans Act, 1875, s. 4 (12 Halsbury's Statutes 255).

(b) "**Housing association.**"—For definition of this term see s. 188 (1), p. 311, *post*. For powers of a local authority to promote and assist such associations, see next section.

(c) **Railway company, etc.**—As to the power of a railway or trading company to erect dwellings, see s. 98, p. 228, *post*.

Housing Associations, &c.

93. Power of local authorities and county councils to promote and assist housing associations.—(1) A local authority, for the purposes of this Part of this Act (a), or a county council, may promote the formation or extension of, or, subject to the provisions of this Act, assist, a housing association (b).

(2) Where a housing association is desirous of erecting houses for the working classes, which in the opinion of the Minister are required, and the local authority of the area in which the houses are proposed to be built are unwilling to acquire land with a view to selling or leasing it to the association, the county council, on the application of the association, may for this purpose acquire land and exercise all the powers of a local authority under this Part of this Act in regard to the acquisition and disposal of land (c), and the provisions of this Part of this Act as to the acquisition of land by local authorities shall apply accordingly.

(3) Any such local authority or county council with the consent of, and subject to any regulations or conditions which may be made or imposed by, the Minister, may, for the assistance of a housing association—

- (a) make grants or loans to the association ;
- (b) subscribe for any share or loan capital of the association ;
- (c) guarantee or join in guaranteeing the payment of the principal of and interest on any money borrowed by the association (including money borrowed by an issue of loan capital) or of interest on any share capital issued by the association ;

on such terms and conditions as to rate of interest and repayment or otherwise and on such security as the local authority or council think fit, and notwithstanding the provisions of section four of the Industrial and Provident Societies Act, 1893, where a local authority or county council assist an association under this subsection, the local authority or council shall not be prevented from having or claiming an interest in the shares of the association exceeding two hundred pounds.

(4) Any expenses incurred by a county council under this section shall be defrayed as expenses for general county purposes.

NOTES TO SECTION 93

This section reproduces s. 70 of the Act of 1925 as amended by ss. 26 and 29 (1) and (2) of the Act of 1935.

(a) "**Local authority for the purposes of this Part of the Act.**"—See s. 1, p. 47, *ante*. A county council is not a local authority within the meaning of s. 1.

(b) "**Housing association.**"—For definition see s. 188 (1), p. 311, *post*.

(c) "**Exercise . . . powers of a local authority . . . in regard to the acquisition and disposal of land.**"—See ss. 73, 74 and 79, pp. 194, 195, 198, *ante*.

94. Power of local authorities to make arrangements with housing associations.—(1) A local authority may with the approval of the Minister make arrangements with a housing association for the purpose of enabling the association to—

- (a) provide [any housing accommodation which the local authority are empowered under this act to provide.] *housing accommodation for persons of the working classes displaced by action taken by the local authority under Part II and Part III of this Act for the demolition of insanitary houses or for the closing of parts of buildings or for dealing with clearance areas ;*
- (b) *provide housing accommodation rendered necessary by displacements occasioned by action taken by the local authority under the provisions of Part III of this Act relating to re-development areas (a) or under Part IV of this Act (b) ;*
- (c) *provide housing accommodation for persons of the working classes for the purpose of the abatement of overcrowding ;*
- (d) *alter, enlarge, repair or improve houses or buildings which, or an estate or interest in which, the local authority have acquired with a view to the provision or improvement of housing accommodation for persons of the working classes (c).*

(2) Arrangements (d) made under this section shall include such terms (e) with regard to such matters, including the types of houses to be provided, and the rents at which the houses provided are to be let, as may appear to the local authority to be expedient in view of the needs of their district in relation to the housing of the working classes and may be approved by the Minister.

(3) The like contribution (*f*), if any, shall be payable out of moneys provided by Parliament in respect of a house provided by a housing association under arrangements made under this section as would be payable if the house had been provided by the local authority, and shall be paid by the Minister to the authority, who shall pay to the association by way of annual grant an amount not less than the contribution :

Provided that, if the Minister is satisfied that the association have made default in giving effect to the terms of any arrangements made between them and the local authority under this section, he may reduce the amount of any contribution payable to the authority under this subsection in respect of houses provided by the association, or suspend or discontinue the payment of any such contribution, as he thinks just.

(4) If the Minister reduces, or suspends, or discontinues the payment of, a contribution payable by him under the last foregoing subsection, the local authority may reduce to a proportionate or any less extent the annual grant payable by them to the association, or may suspend the payment thereof for a corresponding period, or may discontinue the payment thereof, as the case may be.

(5) For the purposes of section eighty of this Act (*g*), the housing accommodation in connection with which buildings or land may be provided under the said section shall include housing accommodation provided by a housing association under arrangements made with the local authority under this section or under section twenty-nine of the Housing Act, 1930 (*h*).

(6) If a housing association represent to the Minister that they have submitted to the local authority proposals for arrangements under this section and that the local authority have unreasonably refused to make arrangements in accordance with the proposals, the Minister may require the authority to furnish him with a report as to the matter stating the reasons for their refusal.

NOTES TO SECTION 94

General Note.—Sub-sections (1) to (4) and (6) reproduce s. 27, and sub-s. (5) reproduces s. 77 of the Act of 1935.

Local authorities are now empowered by this section, with the approval of the Minister, to make arrangements with a housing association for the association to provide any housing accommodation which authority are empowered under the Act to provide. The words in square brackets were substituted by and the words in *italics* repealed by s. 8 of the Housing (Financial Provisions) Act, 1938, see p. 397, *post*. Arrangements under this section may be made by local authorities with development corporations.

See s. 8 (1) of the New Towns Act, 1946. Under that section the Minister may approve any houses provided by a development corporation as entitled to an Exchequer contribution and where no rate fund contribution is forthcoming the Minister may make such good under s. 12 (2). For further provisions relating to housing associations established after April 18, 1946, see s. 18 of the Housing (Financial and Miscellaneous Provisions) Act, 1946, p. 451, *post*. A special provision relating to houses built by the North Eastern Housing Association at the request of the Minister is to be found in s. 11 of the 1946 Act; see p. 442, *post*.

The section provides that the same Exchequer contributions shall be paid to a housing association who make arrangements for any of the above purposes as would be payable if the house had been provided by the local authority. The contribution is payable in the first instance to the local authority who must pass it on to the housing association.

The Minister has the right to reduce, suspend or discontinue the grant if the conditions contained in the agreement are not observed by the association.

By sub-s. (6) a housing association have in effect a right of appeal to the Minister granted to them against an unreasonable refusal of a local authority to make arrangements with the association in accordance with proposals submitted to them by the association under the provisions of this section.

(a) **"Re-development areas."**—For re-development areas, see p. 120, *ante*.

(b) **Part IV.**—Under s. 57 of the Act local authorities are under a duty to make an inspection of their district and to submit a report to the Minister showing the result of the inspection, the number of new houses required to abate overcrowding, and unless they are satisfied that the required number of new houses will be otherwise provided, to prepare and submit proposals for the provision thereof (see notes to that section, p. 168, *ante*).

(c) For these powers, see in particular ss. 72 and 79 of this Act, pp. 191, 198, *ante*.

(d) **"Arrangements."**—It will be desirable that an arrangement of this kind should be embodied in a written agreement setting out the terms and conditions on which the association and authority have agreed. It should also state for which of the purposes, (i) to (v) above, the houses are to be provided, as in certain cases the grant varies according to the purpose.

(e) **"Such terms."**—Conditions with which a local authority must comply in order to earn the grant are now set out in s. 85 of this Act. By sub-s. (2) local authorities are given a discretion as to the conditions which shall be inserted in an arrangement made with a housing association. It seems these need not be the same as the conditions with which an authority have to comply but they will have to be such as the Minister will approve. For unification of conditions affecting houses provided by a housing association, see the following section.

(f) **"Like contribution."**—As to the contributions now payable, see ss. 2, 3 and 4 of the Housing (Financial and Miscellaneous Provisions) Act, 1946, pp. 416 *et seq.*, *post*. See also s. 14 of that Act, p. 445, *post*. See s. 15, p. 447, *post*, for the position where a house provided by a housing association vests in the local authority. See also s. 8 (3) of the New Towns Act, 1946, where a house provided by a development corporation vests in the local authority.

(g) **Section 80.**—See p. 200, *ante*.

(h) **Housing Act, 1930, s. 29.**—This section was repealed by the Act of 1935, s. 99 and Part I of the Seventh Schedule. The section gave local authorities power to make arrangements for the provision of houses with public utility societies.

95. Unification of conditions affecting housing associations' houses.—Where the Minister has undertaken to make in respect of any houses under the management of a housing association contributions under more than one enactment and the association are required to observe in the management of the houses varying special conditions or terms imposed by those enactments, the Minister may, on the application of the association and after consultation with any local authority who are under obligation to make grants or contributions in respect of any of the houses, make a scheme specifying, as conditions to be observed in the management of all the houses in substitution for the conditions or terms imposed as aforesaid, such conditions as he thinks fit, and in specifying the conditions to be so observed the Minister shall have regard to the provisions of this Part of this Act with respect to the conditions which a local authority are required to observe in relation to their houses.

NOTE TO SECTION 95

This section reproduces s. 28 of the Act of 1935. It gives power to the Minister to unify the conditions which must be observed by housing associations who have provided houses under the various provisions of the Housing Acts and receive a contribution in respect of them. For this purpose he may, on the application of the housing association and after consultation with the local authority, make a scheme specifying the conditions to be observed by the association in the management of all their houses. Such scheme will supersede the various conditions imposed by previous Acts, under which the contributions were made. In making such a scheme the Minister is directed by the section to have regard to the conditions which an authority are required to observe, in respect of houses provided by them, by s. 85, p. 206, *ante*.

96. Power of Minister to recognise central housing association.—(1) If a central association or other body has at the date of the commencement of this Act been established, or is thereafter established, for the purpose of promoting the formation and extension of housing associations and of giving them advice and assistance, the Minister may, if he thinks fit, recognise such association or body for the purpose of this section.

(2) The Minister may, in any of the five years next following the date on which he recognises the said central association or body, make out of moneys provided by Parliament a grant in aid of the expenses thereof of such amount as he may with the approval of the Treasury determine.

NOTE TO SECTION 96

The Minister has recognised as such central association the National Federation of Housing Societies, whose address is 13, Suffolk Street, Pall Mall, London, S.W.1.

Miscellaneous.

97. Power of county councils and mental hospitals boards to provide houses for their employees.—A county council or mental hospitals board shall have power to provide houses for persons employed or paid by, or by a statutory committee of, the council or board, and for that purpose may be authorised to acquire or appropriate land in like manner as a local authority may be authorised to acquire or appropriate land for the purposes of this Part of this Act (a).

NOTES TO SECTION 97

This section reproduces s. 72 of the Act of 1925. Local authorities have a general power to provide houses for officers and servants employed in hospitals provided by them (see Public Health Act, 1936, s. 183; 29 Halsbury's Statutes 448).

(a) See ss. 73, 74 and 76, pp. 194, 195, 198, *ante*.

98. Power of companies, &c., to provide houses for working classes.—Any railway company, or dock or harbour company, or any other company, society, or association established for trading or manufacturing purposes in the course of whose business, or in the discharge of whose duties, persons of the working class are employed, may (notwithstanding any Act of Parliament, or charter, or any rule of law or equity to the contrary) at any time erect, either on their own land or on any other land (which they are hereby authorised to purchase and hold for the purpose and to pay for out of any funds at their disposal), houses for the accommodation of all or any of the persons of the working class employed by them.

NOTE TO SECTION 98

This section reproduces s. 71 of the Act of 1925. But for this section a company might not have had power to erect dwellings under this Part of the Act. As to the power of a company to borrow, and of the Public Works Loan Commissioners to lend to a company, see s. 92, p. 220, *ante*.

99. Trusts for provision of houses for working classes.—(1) The trustees of any houses for the working classes for the time being provided in any district by private subscriptions or otherwise, may, with the consent of a majority of the committee or other persons by whom they were appointed trustees, sell or lease the houses to the local authority of the district, or make over to them the management thereof.

(2) If in any case it appears to the Minister that the

institution of legal proceedings is requisite or desirable with respect to any property required to be applied under any trusts for the provision of houses available for the working classes, or that the expediting of any such legal proceedings is requisite or desirable, the Minister may certify the case to the Attorney-General, and the Attorney-General may institute any legal proceedings, or intervene in any legal proceedings already instituted, in such manner as he thinks proper in the circumstances.

(3) Before preparing any scheme with reference to property required to be applied under any trusts for the provision of houses available for the working classes, the court or body which is responsible for making the scheme shall communicate with the Minister and consider any recommendations made by him with reference to the proposed scheme.

NOTE TO SECTION 99

Sub-section (1) reproduces s. 66 (1) and sub-ss. (2) and (3) reproduce s. 132 of the Act of 1925. As to the Solicitor-General acting for the Attorney-General, see Law Officers Act, 1944, s. 1 (37 Halsbury's Statutes 71).

100. Power of corporate bodies to sell or let land for housing purposes.—Any body corporate holding land may sell, exchange, or lease the land for the purpose of the erection of houses for the working classes at such price, or for such consideration, or for such rent, as having regard to the said purpose and to all the circumstances of the case is the best that can reasonably be obtained, notwithstanding that a higher price, consideration, or rent might have been obtained if the land were sold, exchanged, or leased for another purpose.

NOTE TO SECTION 100

This section reproduces s. 78 (2) of the Act of 1925. The section will apply not only to a municipal corporation, but also to corporate bodies capable of holding lands, such as colleges, hospitals, etc. Without the provisions in the text, these bodies which hold their land upon trust could not have sold except at the best market price.

101. Power of water and gas companies to supply on favourable terms.—Any commissioners or trustees of waterworks, water companies, gas companies, and other corporations, bodies and persons having the management of any waterworks, reservoirs, wells, springs, or streams of water, and gasworks respectively, may, in their discretion, grant and furnish supplies of water or gas for houses provided under this Part of this Act, either without charge or on such other favourable terms as they think fit.

NOTE TO SECTION 101

This section reproduces s. 79 of the Housing Act, 1925. It enables a local authority who supply water or gas to give a gratuitous supply to any houses provided by them or by any other body or person under this Part of the Act. There is no special provision as to supply of electricity, but see the Electricity (Supply) Act, 1926, s. 42 (7 Halsbury's Statutes 817), as to methods of charge.

102. Exercise of Public Health Acts powers for purposes of Part V.—The local authority may, for the purposes of this Part of this Act, exercise the same powers as in the execution of their duties under the Public Health Acts.

NOTES TO SECTION 102

This section reproduces s. 57 (3) of the Housing Act, 1925, as amended by the Local Government Act, 1933, s. 307 and Schedule XI, Part IV (26 Halsbury's Statutes 469, 519).

As to contract of local authorities, see *ibid.*, s. 266 (26 Halsbury's Statutes 447).

Provisions as to London.

103. Local authority for Part V in London (other than the City).—(1) As respects the administrative county of London other than the City of London, the question whether in any case the London County Council or the metropolitan borough council are to be the local authority for the purposes of this Part of this Act shall be determined in accordance with the succeeding provisions of this section.

(2) The London County Council shall be the local authority for the purposes of this Part of this Act so far as regards the provision of any houses outside the administrative county of London and for the purposes of section ninety-one of this Act (a).

(3) (b) The London County Council shall carry out such reviews of housing conditions and submit to the Minister such proposals for the provision of new houses as are required by this Part of this Act, but, before preparing any such proposals, the county council shall consult with the councils of the several metropolitan boroughs, and the council of every metropolitan borough shall furnish such information as may reasonably be required by the London County Council for the purpose of preparing any such proposals.

(4) Subject as hereinafter provided, a metropolitan borough council shall be the local authority for the

metropolitan borough so far as regards the provision of houses within the metropolitan borough :

Provided that—

- (a) nothing in this section shall prejudice or affect the rights, powers and privileges of the London County Council in regard to any lands, buildings or works acquired, provided or carried out by the county council before the thirty-first day of July, nineteen hundred and nineteen ;
- (b) without prejudice to the powers conferred on a metropolitan borough council by this Act with respect to the provision of housing accommodation within their borough, the London County Council shall be a local authority for the purposes of this Part of this Act as respects any part of the administrative county of London, other than the City of London, for the purpose of providing housing accommodation for persons of the working classes being either—
 - (i) accommodation rendered necessary by displacements occasioned by action taken by the county council or by a metropolitan borough council under this Act for the demolition of insanitary houses (c) or for dealing with a clearance area (d) ; or
 - (ii) accommodation required for the purpose of the abatement of overcrowding ; or
 - (iii) accommodation rendered necessary by displacements occasioned by action taken by the county council or by a metropolitan borough council under the provisions of Part III of this Act relating to re-development areas (e) or under Part IV of this Act ;
 - [(iv) temporary accommodation in structures made available under section one of the Housing (Temporary Accommodation) Act, 1944.]
- (c) without prejudice to the powers conferred on a metropolitan borough council by this Act with respect to the provision of housing accommodation within their borough, the London County Council shall be a local authority as respects any part of the administrative county of London, other than the City of London, for the following purposes, that is to say, for the purposes of—
 - (i) paragraphs (b), (c) and (d) of subsection (1) of section seventy-two of this Act (f) ;

(ii) subsection (2) of section seventy-two of this Act, so far as that subsection relates to houses converted or acquired by a local authority ;

(iii) paragraphs (b) and (c) of subsection (1) of section seventy-three of this Act (g) ;

- (d) where the London County Council are satisfied that there is in a metropolitan borough land, whether with or without buildings thereon, which is suitable for development for housing, the county council may submit for the approval of the Minister a scheme for the development of that land to meet the needs of districts situate outside that borough or, with the consent of the council of that borough, to meet the needs thereof, and the county council may carry into effect any scheme which is so approved (h).

(5) The Minister may by order direct that any of the powers or duties of a metropolitan borough council under this Part of this Act, other than their powers under section ninety (i), shall be transferred to the London County Council, or that any of the powers or duties of the London County Council under this Part of this Act, other than their duties under subsection (3) of this section or their powers under section ninety-one, shall be transferred to a metropolitan borough council.

NOTES TO SECTION 103

This section incorporates the provisions of s. 80 (1) (b) and (2) and s. 92 (5) of the Act of 1925, s. 31 (3) (a) of the Act of 1930 and s. 74 of the Act of 1935 and s. 38 of the London County Council (General Powers) Act, 1926. The words in square brackets were added by s. 4 (3) of the Housing (Temporary Accommodation) Act, 1944, p. 406, *post*.

General Note.—By this section :—

(a) The London County Council is exclusively the local authority for the following purposes :

- (1) The provision of houses outside the administrative County of London under this Part of the Act ;
- (2) for the purpose of s. 91 of the Act ;
- (3) for the purpose of carrying out reviews of housing conditions and the submission of proposals for the provision of new houses under s. 71 of the Act.

(b) Metropolitan borough councils are the local authority for the provision of houses within the metropolitan boroughs. Without prejudice to their powers the London County Council is a local authority for the purpose of providing housing accommodation :

- (1) to re-house persons displaced by the L.C.C. or a metropolitan borough council in dealing with a clearance area or the demolition of an insanitary house ;
- (2) required for the purpose of the abatement of overcrowding ;

- (3) rendered necessary by displacements occasioned by action taken by the L.C.C. or a metropolitan borough council under Part III of this Act relating to re-development areas or under Part IV ;
- (4) by the conversion of any buildings into dwelling-houses for the working classes ;
- (5) by acquiring houses suitable for the purpose ;
- (6) by altering, enlarging, repairing or improving any houses or buildings which have, or an estate or interest in which has, been acquired by the local authority ;
- (7) by acquiring any houses or other buildings which are, or may be made, suitable as dwelling-houses for the working classes, together with any lands occupied with such houses or other buildings or any estate or interest in such houses or other buildings and lands ;
- (8) by acquiring land for the purpose of :
 - (a) the lease or sale of the land, under powers conferred by the Act, with a view to the erection thereon of houses for the working classes by persons other than the local authority ;
 - (b) the lease or sale under the powers conferred by this Act of any part of the land acquired with a view to the use thereof for purposes which in the opinion of the local authority are necessary or desirable for or incidental to the development of the land as a building estate, including the provision, maintenance, and improvement of houses and gardens, factories, workshops, places of worship, places of recreation, and other works or buildings for, or for the convenience of, persons belonging to the working classes and other persons.
- (9) by submitting proposals for the development of land within a metropolitan borough for housing purposes whether for persons residing in other districts or within the metropolitan borough, and carrying out any such proposals.

The Minister is by sub-s. (5) given power to transfer any of the powers or duties of a metropolitan borough other than their powers under s. 90 to the L.C.C., and any powers or duties of the L.C.C. other than their powers under sub-s. (3) of this section or their powers under s. 91 to a metropolitan borough council.

(a) **Section 91.**—This section gives power to local authorities to make advances for the purposes of increasing housing accommodation, see p. 217, *ante*.

(b) **Sub-section 3.**—See s. 71, p. 191, *ante*.

(c) **"Demolition of insanitary houses."**—See s. 11, p. 70, *ante*.

(d) **"Clearance area."**—See Part III, p. 94, *ante*.

(e) **"Re-development areas."**—See s. 34, pp. 120 *et seq.*, *ante*.

(f) **Section 72.**—See p. 191, *ante*.

(g) **Section 73.**—See p. 194, *ante*.

(h) The London County Council have power to purchase land within the area of a metropolitan borough to provide accommodation for persons displaced by action taken by the county council in areas outside the borough and for the purpose of abating overcrowding even though no scheme has been submitted. *Stocker v. Minister of Health*, [1938] 1 K. B. 655 ; [1937] 4 all E. R. 678 ; Digest Supp.

(i) **Section 90.**—This section provides for loans by local authorities to owners for the improvement of housing accommodation, see p. 216, *ante*.

104. Exercise by local authorities in London of certain powers for purposes of Part V.—(1) So much of subsection (1) of section seventy-four of this Act (a) as provides that a local authority may acquire land for the

purposes of this Part of this Act (*b*) by agreement (*c*) shall have effect so as to authorise a local authority in the administrative county of London to acquire land for those purposes by agreement in like manner as if those purposes were purposes of the Public Health Act, 1875, and sections one hundred and seventy-five to one hundred and seventy-eight of that Act (*d*) so far as they relate to the purchase of land by agreement shall apply accordingly and shall for the purposes of this Part of this Act extend to London in like manner as if the Common Council of the City of London, the London County Council and a metropolitan borough council, respectively, were a local authority in the said sections mentioned.

(2) The powers which a local authority are authorised by section one hundred and two of this Act (*e*) to exercise for the purposes of this Part of this Act shall, in the case of a local authority in the administrative county of London, include powers of contract, and for the reference in the said section to duties under the Public Health Acts there shall be substituted, in relation to the London County Council, a reference to duties under the Metropolis Management Acts, 1855 to 1893, and, in relation to the Common Council of the City of London, a reference to duties under the City of London (Sewers) Acts, 1848 to 1897.

NOTES TO SECTION 104

Sub-section (1) reproduces s. 63 of the Act of 1925 and sub-s. (2) reproduces s. 57 (3) of that Act as amended by this section.

(*a*) **Section 74 (1).**—See p. 195, *ante*.

(*b*) “**The purposes of this Part of this Act.**”—The purposes for which land may be acquired under this Part of the Act are set out in s. 73, p. 194, *ante*. As to restrictions upon the acquisition of certain classes of land, see ss. 142–144, pp. 275, 277, *post*.

(*c*) “**By agreement.**”—This section applies only to the acquisition of land by agreement; s. 74 regulates the compulsory acquisition of land. Land may be appropriated to the purposes of this Part of this Act under s. 76, and donations of land may be accepted for any of the purposes of the Act (s. 150, p. 281, *post*).

(*d*) **Public Health Act, 1875, ss. 175–178.**—By s. 307 of and Part V of the Eleventh Schedule to the Local Government Act, 1933 (26 Halsbury's Statutes 469, 540), those sections which were repealed generally by that Act were preserved as regards the administrative county of London. General provisions as to the acquisition of, and dealings in, land by local authorities in London are now provided in ss. 97 to 114 of the London Government Act, 1939 (32 Halsbury's Statutes 305–312).

(*e*) **Section 102.**—See p. 230, *ante*.

PART VI.—FINANCIAL PROVISIONS.

Government Contributions.

105. Government contributions towards provision of accommodation for persons displaced from unfit houses, &c.—(1) The Minister shall, subject to the provisions of this Part of this Act, make or undertake to make contributions out of moneys provided by Parliament towards any expenses incurred by a local authority in connection with any action taken by them under this Act for the demolition of insanitary houses, or for dealing with clearance or improvement areas, or for the closing of parts of buildings, and in connection with the provision and maintenance of the housing accommodation rendered necessary by any action so taken or by displacements, occurring in the carrying out of re-development in accordance with a re-development plan, from houses which are unfit for human habitation and not capable at reasonable expense of being rendered so fit.

(2) A contribution under this section shall be payable annually for a period of forty years, and shall be the appropriate sum (as hereinafter defined) multiplied by the number of persons of the working classes whose displacement is shown to the satisfaction of the Minister to have been rendered necessary by such action of the local authority as is mentioned in the last foregoing subsection :

Provided that the number of persons to be taken into account in calculating the contribution shall not exceed the number of persons of the working classes for whom suitable accommodation has, with the approval of the Minister, been rendered available by the authority in new houses.

(3) For the purposes of the last foregoing subsection the expression “appropriate sum” means—

- (a) in the case of persons displaced from houses in an agricultural parish, the sum of two pounds ten shillings ; and
- (b) in the case of persons displaced from houses in other parishes, the sum of two pounds five shillings :

Provided that, if in any case the Minister certifies that it is necessary to provide on a site in a clearance area re-housing accommodation in buildings of more than three storeys, or to provide such accommodation on any other site which has been, or is to be, acquired or appropriated

for the purpose with the consent of the Minister and of which the cost or, in the case of a site not purchased for the purpose, the value, as certified by the Minister, exceeds three thousand pounds per acre, the appropriate sum as respects persons for whom such accommodation is made available shall be three pounds ten shillings.

(4) For the purposes of the proviso to the last foregoing subsection, a group of buildings erected with the approval of the Minister within the same curtilage shall be deemed to form one building, and a building or such a group of buildings as aforesaid, though not in all parts exceeding three storeys in height, shall be deemed to be a building of more than three storeys, if the Minister is satisfied that the total accommodation provided therein could not have been provided on the same site in a building containing in all parts the same number of storeys unless that number exceeded three.

(5) Contributions under this section shall not be payable if contributions are payable in respect of the houses either under the Act of 1923 or under the Act of 1924.

(6) No contribution shall be made under any of the three next succeeding sections towards any expenses in respect of which the Minister is required to make contributions under this section.

(7) For the purposes of this section, a house shall be deemed to be situated in an agricultural parish if—

(a) the net annual value of the agricultural land in the parish in which the house is situated as appearing in the valuation list in force on the first day of April, nineteen hundred and twenty-nine, exceeded twenty-five per cent. of the total net annual value of that parish as appearing in the said list; and

(b) the population of the parish, according to the last published census before the beginning of the financial year in which persons are displaced from the house, is less than fifty persons per hundred acres.

(8) For the purposes of this section, the expression "agricultural land" has the same meaning as in the Rating and Valuation Acts, 1925 to 1932, and, in the case of any hereditament occupied by or on behalf of the Crown for public purposes, the value directed by subsection (3) of section sixty-four of the Rating and Valuation Act, 1925, to be entered in the valuation list as representing the rateable value of that hereditament shall be taken as

being in the case of agricultural land fifty per cent. of the net annual value of the hereditament and in any other case the net annual value thereof.

(9) Any question whether a parish is or is not an agricultural parish within the meaning of this section shall be determined by the Minister, whose decision shall be final.

(10) As respects the administrative county of London other than the City of London, both the London County Council and the council of a metropolitan borough shall be local authorities for the purposes of this section, and contributions thereunder shall be payable to that one of those authorities by whom re-housing accommodation in new houses available for displaced persons is provided, notwithstanding that the operations in consequence of which those persons were displaced were initiated or carried out by the other of them.

NOTES TO SECTION 105

Sub-sections (1) to (6) reproduce s. 26 of the Act of 1930 as extended by s. 35 of the Act of 1935, sub-ss. (7) to (9) reproduce s. 60 of the Act of 1930 and sub-s. (10) reproduces s. 31 (3) (b) of the Act of 1930.

General Note.—No contribution is payable under this section in respect of any house completed on or after January 1, 1939. In respect of such houses the "*per capita*" grant was abolished, in favour of a payment in respect of each house provided, by s. 10 of the Housing (Financial Provisions) Act, 1938; see p. 398, *post*. The procedure under that Act was superseded by the provisions of the Housing (Financial and Miscellaneous Provisions) Act, 1946; see pp. 427 *et seq.*, *post*. Contributions are payable under the 1946 Act in respect of houses for which the Minister has given approval on or after August 3, 1944. The classes of displacement for which an Exchequer contribution is payable under this section was amended by s. 1 (5) of the 1938 Act (p. 387, *post*), to include the case of houses for the accommodation of persons displaced from other than unfit houses in a redevelopment area.

S. 1 of the Housing (Temporary Provisions) Act, 1944 (p. 402, *post*), enacted that the limitations contained in s. 1 (5) were to be disregarded in the period between August 3, 1944, and October 1, 1947; but by the Housing (Financial and Miscellaneous Provisions) Act, 1946 (p. 427, *post*), contributions under that Act are payable from August 3, 1944, and the 1946 Act imposes no limitation on the purposes of the accommodation which can earn an Exchequer grant.

106. Government contributions towards provision of flats on sites of high value.—(1) The Minister shall, subject to the provisions of this Part of this Act, undertake to make, and make, contributions out of moneys provided by Parliament towards any expenses incurred by a local authority in providing for the working classes housing accommodation which is either—

(a) required for the purpose of the abatement of overcrowding, or

(b) rendered necessary by displacements occurring in the carrying out of re-development in accordance with a re-development plan, in so far as such accommodation is provided with the approval of the Minister in blocks of flats on sites the cost of which as developed (ascertained in accordance with the provisions of the Sixth Schedule to this Act) exceeds one thousand five hundred pounds per acre, being blocks of flats the erection of which has been, or is, begun on or after the first day of February, nineteen hundred and thirty-five.

(2) A contribution under this section shall be the appropriate sum as defined in the Sixth Schedule to this Act, payable annually for a period of forty years, in respect of each flat which is with the approval of the Minister provided for the purposes of such accommodation as aforesaid in such a block as aforesaid.

NOTES TO SECTION 106

General Note.—No contribution is payable under this section in respect of houses completed after January 1, 1939; see s. 10 of the Housing (Financial Provisions) Act, 1938. The financial provisions of the 1938 Act have been replaced by the Housing (Financial and Miscellaneous Provisions) Act, 1946. For present Exchequer contributions in respect of flats provided on sites of high value see ss. 4 and 5 of the Housing (Financial and Miscellaneous Provisions) Act, 1946, pp. 432 *et seq.*, *post*.

107. Government contributions towards provision of accommodation otherwise than in flats on sites of high value.—(1) Where a local authority propose to provide the whole or part of such housing accommodation as is mentioned in the last foregoing section in new houses, or in new flats not being such as to render a contribution payable under the last foregoing section, then, if the Minister is satisfied that, having regard to the amount of the expenditure already incurred or to be incurred by the authority under the enactments relating to housing in relation to the financial resources of the district, the provision of such accommodation would impose an undue burden on the district, by reason either—

- (a) of the amount of the rents which it will be practicable for the authority to charge for the accommodation having regard to the conditions which the authority are required by Part V of this Act to observe; or
- (b) of the necessity for providing an unusually high proportion of accommodation for large families;

he may, with the approval of the Treasury and subject to the provisions of this Part of this Act, undertake to make, and make, contributions out of moneys provided by Parliament towards any expenses incurred by the local authority in providing such accommodation with his approval in new houses or flats.

(2) A contribution under this section shall be of such amount, not exceeding five pounds, payable annually for such period, not exceeding twenty years, as the Minister considers necessary, in respect of each such house or flat provided with his approval.

NOTES TO SECTION 107

General Note.—No contribution is payable under this section in respect of houses completed after January 1, 1939; see s. 10 of the Housing (Financial Provisions) Act, 1938, p. 398, *post*. The financial provisions of that Act have been replaced by the Housing (Financial and Miscellaneous Provisions) Act, 1946. For present Exchequer contributions in cases of "undue burden" see ss. 3 and 7 of the 1946 Act, pp. 430, 436, *post*.

108. Government contributions towards expenses of housing members of the agricultural population.—

(1) The Minister may, subject to the provisions of this Part of this Act and on the recommendation of a committee (hereinafter referred to as the Rural Housing Committee) appointed by him with the approval of the Treasury for the purposes of this section, undertake to make, and make, contributions out of moneys provided by Parliament towards any expenses incurred by a rural district council in providing with the approval of the Minister new housing accommodation required for members of the agricultural population for the purpose of the abatement of overcrowding in the rural district.

(2) A contribution under this section shall be of such amount, not being less than two pounds nor more than eight pounds, as the Minister may determine, payable annually for a period of forty years, in respect of each new house provided with his approval.

(3) In considering applications the Rural Housing Committee shall be guided by any general directions which may be given to them by the Minister, with the approval of the Treasury, for the purposes of this section.

NOTES TO SECTION 108

General Note.—No contribution is payable under this section in respect of houses completed after January 1, 1939; see s. 10 of the Housing (Financial Provisions) Act, 1938, p. 398, *post*. The financial provisions of the 1938 Act were superseded by the Housing (Financial and Miscellaneous Provisions)

Act, 1946. Under s. 3 of the 1946 Act (p. 430, *post*) an Exchequer contribution of £25 10s. per annum for 60 years is available for re-housing members of the agricultural population. The restrictions contained in sub-s. (1) of this section do not apply to s. 3 of the 1946 Act, which applies generally where the houses are required for the agricultural population of the district.

109. Review of certain Government contributions in case of new houses provided at future times.—

(1) *In the year nineteen hundred and thirty-seven, after the first day of October in that year, and in each third succeeding year, after the first day of October in that year, the Minister shall take into consideration, in connection with contributions which he is required or authorised to make under each of the four last foregoing sections, the amount of expenses, towards which contributions would be payable by him under that section, likely to be incurred in the period of three years from the first day of April then the next following, and the amount of such expenses in connection with operations already carried out.*

(2) *As soon as may be after considering the matters aforesaid in any year, the Minister shall prepare with the approval of the Treasury, and lay before the Commons House of Parliament, a draft of an order providing, in relation to contributions under each of the said sections, either—*

- (a) *for the cesser of his obligation or power to undertake to make, or to make, contributions under that section, in the case of new houses which have not been rendered available until after a date to be specified in the order ;*
or
- (b) *for the continuance thereof without alteration ; or*
- (c) *for the alteration of the amount of the contributions in the case aforesaid, or of the period for which they are to be payable, or of both ;*

and if a resolution approving the draft is passed by that House within one month from the date on which the draft is laid, the Minister shall make an order in the terms of the draft, but in any other event he shall, as soon as may be after the expiration of that period, prepare and lay a new draft, and the foregoing provisions of this subsection shall have effect in relation to any new draft as they have effect in relation to an original draft.

(3) *The date to be specified in an order made under this section shall—*

- (a) *in the case of an order made in consequence of the consideration of the matters aforesaid in the year nineteen hundred and thirty-seven, be the thirty-first day of March nineteen hundred and thirty-eight ; and*

(b) *in the case of an order made in consequence of the consideration of the matters aforesaid in any subsequent year, not be earlier than the expiration of six months from the date on which the draft of the order is laid before the Commons House.*

(4) *An order made under this section shall not provide for the alteration of the amount of any contributions, or of the period for which any contributions are to be payable, so as to be in excess of the amount or period fixed by the section under which they are required or authorised to be made.*

(5) *When taking into consideration the matters aforesaid, the Minister shall consult with such associations of local authorities as appear to him to be concerned and with any local authority with whom consultation appears to him to be desirable.*

(6) *An order under this section may make such consequential provision for the cesser of the obligation of a local authority to make contributions, or such consequential alterations of the amount or duration of contributions to be made by a local authority, as appear to the Minister to be necessary for the purpose of adjusting them to the cesser of the Minister's contributions or to alterations of the amount or duration of the Minister's contributions.*

NOTES TO SECTION 109

General Note.—This section was amended by s. 5 of the Housing (Financial Provisions) Act, 1938 (see p. 393, *post*) ; but by s. 16 (7) of the Housing (Financial and Miscellaneous Provisions) Act, 1946 (p. 449, *post*), both this section and s. 5 of the 1938 Act were repealed. Provision for review of contributions is to be found in s. 16 of the 1946 Act, p. 448, *post*.

110. Government contributions towards losses sustained under guarantees to building and other societies.—Where a local authority or a county council submit to the Minister proposals for guaranteeing, in exercise of their powers under paragraph (b) of sub-section (1) of section ninety-one of this Act (*a*), the repayment to a society of advances made by the society to any of its members for the purpose of enabling them to build or acquire houses intended to be let to persons of the working classes, if the Minister is satisfied that the guarantee extends only to the principal of, and interest on, the amount by which the sum to be advanced by the society exceeds the sum which would normally be advanced by it without any such guarantee, and that the liability of the local authority or county council under the guarantee cannot be greater than two-thirds of that principal and

interest, the Minister, if he approves the proposals, may, with the consent of the Treasury, undertake to reimburse to the local authority or county council out of moneys provided by Parliament not more than one-half of any loss sustained by them under the terms of the guarantee :

Provided that any proposals made to the Minister under this section shall—

- (a) include such particulars as he may direct as to the number and type of the houses intended to be built or acquired and the approximate size of them measured in superficial feet ; and
- (b) make provision for securing, except in so far as the Minister may in any particular case dispense with either or both of the requirements of this paragraph, that the number of such houses in relation to the area occupied or intended to be occupied by and in connection with them will not exceed the rate of twelve to the acre and that each of them will be provided with a fixed bath.

NOTES TO SECTION 110

General Note.—This section reproduces s. 2 (1) of the Housing (Financial Provisions) Act, 1933, repealed by s. 190 and the Twelfth Schedule. That Act marked the end of subsidies under the 1923 and 1924 Acts. The passing of that Act was based on the belief that there was no longer any economic justification for the subsidies, and s. 2, which this section reproduced, was designed to help to fill up any gap that would be left in the work of providing houses for the occupation of the working classes by providing for Government reimbursement of losses sustained by local authorities on guarantees given by them to building and other societies for the purpose of inducing such societies to make bigger advances than they would otherwise be willing to do on the security of property alone.

(a) **Section 91.**—See p. 217, *ante*.

111. Modification of Acts of 1919 and 1923 as to certain Government contributions.—The provisions of the Seventh Schedule (a) to this Act shall have effect for the purpose of the determination of the amount of the following contributions which the Minister is required or authorised to make to a local authority, that is to say,—

- (a) contributions payable under section seven of the Act of 1919 (b), other than contributions in respect of schemes for the provision of houses for persons in the employment of, or paid by, a county council, or a statutory committee thereof (c) ; and
- (b) contributions payable under subsection (3) of section one of the Act of 1923 (d).

NOTES TO SECTION 111

General Note.—This section takes the place of s. 40 (2) of the Act of 1935. It provides for certain modifications of the Exchequer contributions payable under s. 7 of the Act of 1919 and s. 1 (3) of the Act of 1923.

The repealed s. 7 of the Housing, Town Planning, etc., Act, 1919, provided *inter alia* for Exchequer contributions towards any loss incurred by a local authority in the carrying out of a housing scheme under that Act. The section was repealed by s. 6 of the Housing, etc., Act, 1923, but that section saved the validity of the regulations made under s. 7 and also the power to amend such regulations. It also preserved the liability of the Minister to pay such sums which under that section and the regulations made thereunder he had undertaken to pay.

By the Housing Act, 1935, s. 99 and Part II of the Seventh Schedule, sub-s. (1) of s. 6 of the Housing, etc., Act, 1923, was repealed as from April 1, 1935, so far as it saved the validity of and the power to amend regulations made under s. 7 of the Act of 1919 or s. 8 of the Housing Act, 1921, not being regulations relating to schemes for the provision of houses for persons in the employment of or paid by a county council or a statutory committee thereof.

Section 45 of the Housing Act, 1930, which amended the provisions with respect to the determination of the amount of any annual payment to be made—

- (a) by the Minister to a local authority under s. 7 of the Act of 1919 and s. 6 of the Act of 1923; or
- (b) by the L.C.C. to the council of a metropolitan borough under s. 8 of the Act of 1921, and s. 6 of the Act of 1923;

was repealed by the Housing Act, 1935, s. 99 and Part I of the Seventh Schedule. The provisions of the Seventh Schedule with respect to the payment of contributions by the Minister under s. 7 of the Act of 1919 now, by this section, governs the payment of such contributions in substitution for the repealed regulations mentioned above.

Sub-section (3) of s. 1 of the Housing, etc., Act, 1923, was repealed by the Housing Act, 1930, s. 26 (5) and the Sixth Schedule, but the repeal was not to affect any liability of the Minister to pay any contributions which he had undertaken to pay before the commencement of the 1930 Act. Para. 9 of the Seventh Schedule now governs the determination of the contributions payable by the Minister under this sub-section.

- (a) "**Seventh Schedule.**"—See p. 337, *post*.

(b) **Section 7, Housing, Town Planning, etc., Act, 1919.**—This section provided :—

(1) If it appears to the Minister of Health that the carrying out by a local authority, or by a county council to whom the powers of a local authority have been transferred under this Act, of any scheme approved under s. 1 of this Act, or the carrying out of a re-housing scheme in connection with a scheme made under Part I or Part II of the principal Act, including the acquisition, clearance, and development of land included in the last-mentioned scheme, and whether the re-housing will be effected on the area included in that scheme or elsewhere, or the carrying out of any scheme approved by the Minister for the provision of houses for persons in the employment of or paid by a county council or a statutory committee thereof, has resulted or is likely to result in a loss, the Minister shall, if the scheme is carried out within such period after the passing of this Act as may be specified by the Minister with the consent of the Treasury, pay or undertake to pay to the local authority or county council out of moneys provided by Parliament such part of the loss as may be determined to be so payable under regulations made by the Minister with the approval of the Treasury, subject to such conditions as may be prescribed by those regulations.

(2) Such regulations shall provide that the amount of any annual payment to be made under this section shall :—

- (a) in the case of a scheme carried out by a local authority, be determined

on the basis of the estimated annual loss resulting from the carrying out of any scheme or schemes to which this section applies, subject to the deduction therefrom of a sum not exceeding the estimated annual produce of a rate of one penny in the pound levied in the area chargeable with the expenses of such scheme or schemes; and

- b) in the case of a scheme for the provision of houses for persons in the employment of or paid by a county council, or a statutory committee thereof, be an amount (equivalent during the period ending on the 31st day of March, 1927, to fifty per centum, and thereafter to forty (see s. 6 (2), *Housing, etc., Act, 1923*) per centum of the annual loan charges) as calculated in accordance with the regulations on the total capital expenditure incurred by the county council for the purposes of the scheme:

Provided that the regulations shall include provisions:—

- (i) for the reduction of the amount of the annual payment in the event of a failure on the part of the local authority or county council to secure due economy in the carrying out and administration of a scheme to charge sufficient rents or otherwise to comply with the conditions prescribed by the regulations;
- (ii) for the determination of the manner in which the produce of a rate of one penny in the pound shall be estimated; and
- (iii) for any adjustment which may be necessary in consequence of any difference between the estimated annual produce and the actual produce of the said rate of one penny in the pound.

(3) Every regulation so made shall be laid before both Houses of Parliament as soon as may be after it is made, and, if an address is presented by either House within twenty-one days on which that House has sat next after any such regulation is laid before it praying that the regulation may be annulled His Majesty in Council may annul the regulation, but without prejudice to the validity of anything previously done thereunder.

(4) Where a loan is made by the Public Works Loan Commissioners for the purposes of a scheme towards the losses on which the Minister of Health is liable to contribute under this section the loan shall, notwithstanding anything in s. 3 of the *Housing, Town Planning, etc., Act, 1909*, be made on such terms and conditions as the Treasury may prescribe.

This sub-section shall be deemed to have had effect as from the first day of April nineteen hundred and nineteen, as respects any proposals made by a local authority and approved by the Minister of Health before the passing of this Act as respects which the Minister may have signified his intention to direct that they shall be treated as a scheme for the purposes of this section.

(5) The provisions of this section relating to the carrying out of a scheme for the provision of houses for persons in the employment of or paid by county councils shall apply to the Lancashire Asylums Board, the West Riding of Yorkshire Asylums Board or other body constituted for the purpose of the administration of the Lunacy Acts, on behalf of any combination of county councils and county borough councils.

(c) **Other than contributions in respect of schemes, etc.**—The repeal of s. 6 (1) of the *Housing, etc., Act, 1923*, by the *Housing Act, 1935*, s. 99 and Part II of the Seventh Schedule preserved the regulations made in respect of the provision of houses for persons in the employment of, or paid by, a county council or a statutory committee thereof. See S. R. & O., 1920, No. 336, p. 469, *post*, and S. R. & O., 1924, No. 3, p. 472, *post*.

(d) **Housing, etc., Act, 1923, s. 1 (3).**—This sub-section provided:

(3) The Minister may, with the approval of the Treasury, make or undertake to make contributions out of moneys provided by Parliament towards the expenses incurred by a local authority in carrying out a re-housing scheme in connection with a scheme made under Part I or Part II of the principal Act (including the acquisition, clearance and development of land included in the last-mentioned scheme, and whether the re-housing will be

effected on the area included in that scheme or elsewhere), of such amounts for such periods, and subject to such conditions as, with the approval of the Treasury and after consultation with the local authority the Minister may determine, so, however, that the annual contributions in respect of any such re-housing scheme shall not exceed one-half of the estimated average annual loss likely to be incurred by the local authority in carrying out the scheme.

112. Time and manner of payment of Government contributions.—Contributions to be made by the Minister to a local authority under any enactment in the Housing Acts shall be payable at such times and in such manner as the Treasury may direct and subject to such conditions as to records, certificates, audit or otherwise as the Minister may, with the approval of the Treasury, impose.

NOTE TO SECTION 112

This section reproduces s. 48 of the Housing Act, 1935, which consolidated the provisions inserted in the various Housing Acts, in respect of the payment of Exchequer contributions. The Ministry has issued directions for the time, manner, etc., in which such payments will be made. See para. 5 of Appendix II, and Appendix III of the Ministry of Health Circular 118/46 dated July 12, 1946, p. 593, *post*.

113. Power to withhold certain Government contributions in event of default.—If at any time the Minister is satisfied (a) that a local authority have either—

- (a) failed to discharge any of the duties imposed on them by virtue of the Housing Acts ; or
- (b) failed to observe any condition subject to which they are entitled to receive an Exchequer contribution (b) ;

the Minister may reduce the amount of any Exchequer contribution payable to the authority, or suspend or discontinue the payment of any such contribution, as he thinks just.

NOTES TO SECTION 113

This section reproduces s. 49 (1) of the Act of 1935. Under this section the Minister can reduce the amount of any Exchequer contribution or discontinue or suspend the payment of such contribution if he is satisfied that the local authority have either :

- (a) failed to discharge any of the duties imposed on them by virtue of the Housing Acts ; or
- (b) failed to observe any condition subject to which they are entitled to receive an Exchequer contribution.

For other powers of the Minister to act in default, see ss. 169–175, pp. 294 *et seq.*, *post*. See also s. 7 (3) of the Housing (Financial Provisions) Act, 1938, p. 396, *post*, and ss. 19 and 20 of the Housing (Financial and Miscellaneous Provisions) Act, 1946, pp. 254 *et seq.*, *post*.

(a) "**Is satisfied.**"—It appears that the Minister may satisfy himself under this section that a local authority are in default on any evidence before him, but doubtless he will, before taking so drastic a step, give the local authority alleged to be in default every opportunity of rebutting the charges brought against it and for this purpose exercise his statutory power to hold a local inquiry into the matter. S. 178, p. 304, *post*, confers a general power on the Minister to hold such local inquiries as he thinks fit for the purposes of his powers and duties under the Housing Acts. He has also power to hold inquiries into the alleged default of a local authority under ss. 169, 170 and 171, pp. 294, 297 *et seq.*, *post*.

(b) **Para. (b).**—The conditions which a local authority are required to observe in respect of houses provided by them are contained in Part V, s. 85, p. 206, *ante*. As to conditions imposed by the Minister with the approval of the Treasury, see the previous section.

Contributions out of rates.

114. Local authorities' contributions.—A local authority to whom the Minister has undertaken to make a contribution under section one hundred and six, one hundred and seven or one hundred and eight of this Act in respect of any house shall make out of the general rate fund (a) in respect thereof the contributions specified in relation thereto in the Eighth Schedule (b) to this Act; *and it shall be a condition of the right of a local authority to receive any Exchequer contribution that the authority shall make out of the general rate fund the contributions specified in that Schedule.*

NOTES TO SECTION 114

General Note.—This section in substance reproduces ss. 34 and 41 of the Housing Act, 1935. It provides for contributions to be paid by local authorities out of the general rate fund in the case where an Exchequer contribution is payable under ss. 106, 107 and 108, *ante*. For current rate fund contributions see ss. 5 to 8 of the Housing (Financial and Miscellaneous Provisions) Act, 1946, pp. 433 *et seq.*, *post*. The words in italics were repealed by s. 6 (4) of the Housing (Financial Provisions) Act, 1938, p. 394, *post*. S. 6 (4) was itself repealed by s. 20 of the Housing (Financial and Miscellaneous Provisions) Act, 1946, p. 455, *post*. S. 20, however, provides that the repeal is without prejudice to the Minister's power to reduce or withhold an Exchequer contribution under s. 113 where the local authority is in default. The effect of the repeal of s. 6 (4) of the 1938 Act by s. 20 of the 1946 Act is that it is no longer a condition that there must be a rate fund contribution before there can be an Exchequer contribution. The matter is now in the discretion of the Minister. The repeal of s. 6 (4) of the 1938 Act does not revive the repealed words in this section. See s. 11 of the Interpretation Act, 1889 (18 Halsbury's Statutes 994).

As to the powers of the Minister to reduce, suspend or discontinue Exchequer contributions to local authorities in default, see the preceding section.

(a) "**General rate fund.**"—By s. 134 and para. 6 of the Tenth Schedule it is provided that for references in that part of the Act to the general rate fund of a local authority there shall be substituted in relation to the London County Council references to the county fund.

(b) "**Eighth Schedule.**"—See p. 341, *post*.

115. Contributions by county council towards housing expenses in rural districts.—(1) When the council of a rural district have adopted proposals for the provision of houses, they may transmit to the county council a statement of their proposals and, where such a statement is so transmitted, the provisions of the next succeeding subsection shall have effect with respect to the making of contributions by the county council to the council of the rural district.

(2) If the council of the rural district claim that any of the houses which they propose to provide are required for the accommodation of the agricultural population (a) of the district, the county council, or, in the event of any dispute between the county council and the district council, the Minister, shall determine for the purposes of this subsection how many of the houses are so required, and thereupon the county council shall undertake to make to the district council in respect of each of the forty years next following the completion of the houses a contribution at the rate of one pound per house :

Provided that no such contribution shall be payable in respect of a number of houses greater than the number of houses so determined as aforesaid to be required for the accommodation of the agricultural population of the district.

For the purposes of this subsection, the expression "agricultural population" means persons whose employment or latest employment is or was employment in agriculture or in an industry mainly dependent upon agriculture, and includes also the dependants of such persons as aforesaid ; the expression "agriculture" includes dairy-farming and poultry-farming and the use of land as grazing, meadow, or pasture land, or orchard or osier land, or woodland, or for market gardens or nursery grounds ; the expression "year" means a period of twelve months commencing on the first day of April ; and, in the event of any dispute, such date as the Minister may determine shall be taken to be the date of the completion of the houses.

(3) The county council shall, in respect of each house towards the cost of which the Minister has undertaken to make a contribution under section one hundred and eight (b) of this Act, make to the district council by whom the house is provided, during the period of forty years next following the completion of the house, an annual contribution of one pound.

(4) Without prejudice to the provisions of the foregoing subsections, the county council may, in the case of any house provided with the approval of the Minister, undertake to make to the district council an annual contribution of such amount and payable during such period as may be specified in the undertaking.

(5) If the Minister reduces, or suspends or discontinues the payment of (c), any Exchequer contribution on the ground that the local authority have failed to discharge a duty imposed upon them by Part V (d) of this Act to reserve accommodation for members of the agricultural population or other persons, the county council shall not be under any liability to make any contribution under the foregoing provisions of this section in respect of any year in respect of which the Exchequer contribution is not paid in full.

NOTES TO SECTION 115

General Note.—Sub-section (1) reproduces with modifications sub-s. (1), and sub-s. (2) reproduces sub-s. (2) and sub-s. (4) reproduces sub-s. (3) of s. 34 of the Act of 1930; sub-s. (3) reproduces sub-s. (3) of s. 34 and sub-s. (5) reproduces sub-s. (2) of s. 49 of the Act of 1935.

No contribution is payable under sub-ss. (2) and (3) in respect of houses completed after January 1, 1939 (see s. 10 (1) of the Housing (Financial Provisions) Act, 1938, p. 398, *post*), and no undertaking under sub-s. (4) can be given after April 18, 1946; see s. 8 (3) of the Housing (Financial and Miscellaneous Provisions) Act, 1946, p. 438, *post*. For current contributions by county councils see s. 8 of the Housing (Financial and Miscellaneous Provisions) Act, 1946, p. 438, *post*.

(a) "**Agricultural population.**"—Note that, as defined in sub-s. (2), this expression includes persons whose employment or latest employment is, or was, in any industry mainly dependent upon agriculture. Whether any given industry is *mainly* dependent upon agriculture will in each case be a question of fact. But this is clearly a wide definition. As "agriculture" includes the use of land as woodland, a timber works might be regarded as an industry dependent upon agriculture. This definition is adopted by s. 25 (1) of the Housing (Financial and Miscellaneous Provisions) Act, 1946 (p. 459, *post*), for the purposes of that Act.

(b) "**Section 108.**"—See p. 239, *ante*.

(c) **Default powers.**—See s. 113, p. 245, *ante*.

(d) "**Duty imposed upon them by Part V.**"—See s. 85, p. 206, *ante*.

Expenses of Local Authorities.

116. Expenses of rural district councils and county councils.—(1) Subject to the provisions of this Act, any expenses incurred by a rural district council under Part II of this Act, or under the provisions of Part III of this Act relating to clearance areas or to improvement areas, shall be charged as special expenses on the contributory place in respect of which they are incurred.

(2) Subject to the provisions of this Act, any expenses incurred in the execution of this Act by a county council, other than the London County Council (a), shall be defrayed as expenses for general county purposes, or as expenses for special county purposes, as the case may require.

NOTES TO SECTION 116

Sub-section (1) in substance reproduces sub-s. (2) of s. 81 and sub-s. (2) in substance reproduces s. 83 of the Act of 1925.

(a) "**Other than the London County Council.**"—For these see the next section.

117. Expenses of local authorities in London.—

(1) All expenses incurred in the execution of this Act by The Common Council of the City of London, *or by the council of a metropolitan borough*, shall be defrayed as part of their general expenses.

(2) Subject to the provisions of this subsection, all expenses incurred in the execution of this Act by the London County Council in their capacity of local authority (a) shall be defrayed as expenses for special county purposes, and all expenses so incurred by them in any other capacity shall be defrayed as expenses for general county purposes, or as expenses for special county purposes, as the case may require :

Provided that there shall be defrayed as expenses for general county purposes any expenses incurred by the council—

- (a) in connection with any action taken by them under this Act for dealing with clearance or improvement areas, or under the provisions of Part III of this Act relating to re-development areas, or under Part IV of this Act ;
- (b) in connection with the provision and maintenance of housing accommodation rendered necessary by action taken by them under this Act for dealing with clearance or improvement areas or of housing accommodation required for the purpose of the abatement of overcrowding or rendered necessary by displacements occurring in the carrying out of re-development in accordance with a re-development plan ;
- (c) in making contributions towards any expenses incurred by the Common Council of the City of London, or the council of a metropolitan borough, in dealing with a clearance area or improvement

area or in connection with any action taken by that council under the provisions of Part III of this Act relating to re-development areas or under Part IV of this Act or taken by that council in connection with the provision and maintenance of housing accommodation required for the purpose of the abatement of overcrowding or rendered necessary by displacements occurring in the carrying out of re-development in accordance with a re-development plan ;

- (d) under section ninety-one (b) or ninety-three (c) of this Act ; or
- (e) in making any additional contribution out of the county fund under paragraph 8 of the Eighth Schedule (d) to this Act.

NOTES TO SECTION 117

This section consolidates the provisions as to expenses of local authorities in London contained in ss. 81 and 83 of the Act of 1925, s. 49 of the Act of 1930 and s. 96 of the Act of 1935. The words in italics were repealed by the Eighth Schedule to the London Government Act, 1939 (32 Halsbury's Statutes 379). As to expenses of Metropolitan Borough Councils, see ss. 121 and 122 of that Act (32 Halsbury's Statutes 316).

(a) "**In their capacity of local authority.**"—See on this s. 1, p. 47, *ante*, and notes thereto.

(b) **Section 91.**—That is the section which gives local authorities the power to make advances for the purpose of increasing housing accommodation, see p. 217, *ante*.

(c) **Section 93.**—This section gives the local authorities the power to promote and assist housing associations, see p. 223, *ante*.

(d) **Eighth Schedule, para. 8.**—See p. 343, *post*.

Borrowing.

118. Power of local authorities to borrow for purposes of Act.—Subject to the provisions of this Act, a local authority may borrow—

- (a) for the purposes of Part II of this Act, so far as it relates to the execution of repairs and works by local authorities ;
- (b) for the purposes of Part III (except sections fifty-four to fifty-six (a)) and Part IV of this Act ;
- (c) for the purposes of Part V of this Act, except section eighty-seven (b), paragraph (c) of sub-section (1) of section ninety-one (c), and section ninety-four (d).

NOTES TO SECTION 118

This section consolidates the provisions as to borrowing contained in s. 84 of the Act of 1925 and s. 23 of the Act of 1935. As to borrowing in London, see next section, and for methods of borrowing outside London, see Local Government Act, 1933, Part IX. See, however, the provisions of s. 1 of the Local Authorities Loans Act, 1945 (38 Halsbury's Statutes 309). Under that section notwithstanding anything in any enactment it is unlawful for local authorities, without Treasury approval, to borrow money otherwise than from the Public Works Loan Commissioners. S. 1 expires on December 31, 1950. By s. 2 the power of the Commissioners under s. 9 of the Public Works Loans Act, 1875 (12 Halsbury's Statutes 258), shall include power to make loans for any purpose for which a local authority has power to borrow. Under the proviso to s. 1 the Treasury may by regulation exempt such borrowing as may be prescribed by the regulation. See Local Authorities Loans (Exemptions) Regulations, 1945, S. R. & O. 1945, No. 680. See also Defence Regulations prohibiting capital issues without Treasury consent.

(a) **Sections 54-56.**—*I.e.* the sections dealing with the demolition of obstructive buildings, see pp. 163 *et seq.*, *ante*.

(b) **Section 87.**—*I.e.* the section giving power to establish Housing Management Commissions.

(c) **Section 91 (1) (c).**—*I.e.* paragraph dealing with refund of rates on converted houses, see p. 217, *ante*.

(d) **Section 94.**—See p. 224, *ante*.

119. Borrowing by local authorities in London.—Money borrowed under this Act by a local authority in the administrative county of London may be borrowed—

- (a) in the case of the London County Council, in manner provided by the London County Council (Finance Consolidation) Act, 1912;
- (b) in the case of the Common Council of the City of London, under the City of London (Sewers) Acts, 1848 to 1897;
- (c) *in the case of a metropolitan borough council, in like manner and subject to the like conditions as for the purposes of the Metropolis Management Acts, 1855 to 1893:*

Provided that—

- (i) the maximum period which may be sanctioned as the period for which money may be borrowed by such a local authority for the purposes of this Act shall, notwithstanding the provisions of any Act of Parliament, be eighty years; and
- (ii) *section one hundred and ninety of the Metropolis Management Act, 1855 (which relates to the amount of annual contributions to be made to a sinking fund), shall have effect as if for the reference therein to a sum being not less than two pounds per cent. on the amount of the money borrowed there were substituted a reference to such sum as will be sufficient*

with compound interest to repay the money borrowed within the period sanctioned in respect of the loan.

NOTE TO SECTION 119

This section replaces s. 84 (2) of the Act of 1925. The words in italics were repealed by the Eighth Schedule to the London Government Act, 1939 (32 Halsbury's Statutes 379), which also repealed s. 190 of the Metropolitan Management Act, 1855. The borrowing powers of Metropolitan borough councils now derive from Part VII of the London Government Act, 1939.

120. Power of county councils and mental hospital boards to borrow.—(1) A county council (other than the London County Council (*a*)) may borrow for the purposes of this Act (other than the purposes of paragraph (*c*) of subsection (1) of section ninety-one of this Act (*b*)).

(2) A mental hospital board may borrow, under and in accordance with Part IX of the Local Government Act, 1933 (*c*), for the purposes of this Act so far as it relates to the provision of houses for persons in the employment of, or paid by, the board:

Provided that, where the money is borrowed for the purposes of the provision of houses or of acquiring land for houses, the maximum period for repayment shall be eighty years, and as respects money so borrowed eighty years shall in the provisions fixing the period within which the board is required to repay loans be substituted for the period therein mentioned.

NOTES TO SECTION 120

This section takes the place of s. 85 of the Act of 1925.

(*a*) **London County Council.** See previous section.

(*b*) **Section 91.** See p. 217, *ante*.

(*c*) "**Local Government Act, 1933.**"—The purposes for which money may be borrowed by local authorities is now governed by s. 195 (26 Halsbury's Statutes 412), and the period of repayment by s. 198 and Schedule VIII (26 Halsbury's Statutes 414, 510).

121. Borrowing in connection with operations carried out by local authority outside its own area.—

(1) Where housing operations under Part V of this Act are being carried out by a local authority outside their own area, that authority shall, subject to the approval of the Minister, have power to borrow money for the purpose of defraying any expenses (including, if the Treasury so approve, interest payable in respect of any period before the completion of the operations, or a period of five years from the date of the borrowing, whichever period is the shorter, on money borrowed under this section) incurred

by the local authority in connection with any works necessary for the purposes of the operations, or incidental to the carrying out thereof, which under this Act they are authorised to execute :

Provided that any order of the Minister, in so far as it relates to the sanction of a loan under the foregoing provisions for the purpose of the payment of interest payable in respect of money borrowed, shall be provisional only and shall be of no effect until confirmed by Parliament.

(2) The council of any county, borough or district in which operations are being carried out as aforesaid shall have power, with the approval of the Minister, to borrow money for the purposes of any agreement entered into by the council with the local authority under Part V of this Act.

NOTES TO SECTION 121

This section reproduces s. 86 of the Act of 1925.

For the power to carry on housing operations outside their area, see ss. 72 and 81, pp. 191, 261, *ante*.

For procedure with regard to provisional orders, see Local Government Act, 1933, s. 285 (26 Halsbury's Statutes 455).

122. Power to issue local housing bonds.—

(1) Without prejudice to any other powers of borrowing, a local authority (other than a metropolitan borough council) or a county council may, with the consent of the Minister, borrow any sums which they have power to borrow for the purposes of this Act, by the issue of bonds (in this Act referred to as "local bonds") in accordance with the provisions of this Act.

(2) The provisions set out in the Ninth Schedule (a) to this Act shall have effect with respect to local bonds.

(3) Where on an application made by two or more local authorities or county councils the Minister is satisfied that it is expedient that those authorities or councils should have power to make a joint issue of local bonds, the Minister may by order make such provision as appears to him necessary for the purpose, and any such order shall provide for the securing of the bonds issued upon the joint rates, property and revenues of the authorities or councils.

The provisions of any such order shall have effect as if they were contained in a Provisional Order made under section two hundred and seventy-nine of the Public Health Act, 1875, and confirmed by Parliament.

(4) A local authority or county council by whom any local bonds have been issued may, without the consent of

the Minister, borrow for the purpose of redeeming those bonds (b).

NOTES TO SECTION 122

General Note.—This section reproduces s. 87 of the Act of 1925.

Bonds issued under this section are trustee securities, as also are mortgages of any fund or rate granted after December 23, 1919, by a local authority authorised to issue bonds under this section; see the Trustee Act, 1925, s. 1 (1) (p) (20 Halsbury's Statutes 97).

Note that s. 217 of the Local Government Act, 1933 (26 Halsbury's Statutes 423), provides that nothing in Part IX of that Act (which Part relates to borrowing), except the provisions relating to the making of returns to the Minister, shall apply to any local bonds issued under the provisions of s. 87 of the Housing Act, 1925 (which is replaced by this section), or any enactment repealed by that Act, or the power conferred on a local authority by that section to issue such bonds. See reference to Local Authorities Loans Act, 1945, in General Note to s. 118, p. 251, *ante*.

(a) "**Ninth Schedule.**"—See this Schedule at p. 345, *post*, and the Housing Consolidated Regulations, 1925, made thereunder, p. 480, *post*.

(b) **Sub-section 4.**—The consent of the Minister is not required to the raising of a loan for the purpose of redeeming local bonds that have been issued; but it is required for the issue of local bonds.

123. Loans by Public Works Loan Commissioners to local authorities.—(1) The Public Works Loan Commissioners may lend to any local authority or county council any money which that authority or council have power to borrow for the purpose of making advances or fulfilling guarantees under section ninety-one of this Act (a).

(2) Where a loan is made by the Public Works Loan Commissioners to a local authority for the purposes of this Act or to a county council or a mental hospital board for the purpose of the provision of houses for employees (b) or for the purposes of section ninety-one of this Act—

- (a) the loan shall be made at the minimum rate [applicable to the period for which the loan is made] allowed for the time being for loans out of the Local Loans Fund; and
- (b) the period for which the loan is made may exceed the period allowed under any enactment limiting the period for which loans may be made by the Commissioners, but shall not exceed eighty years; and
- (c) *as between loans for different periods, the longer duration of the loan shall not be taken as a reason for fixing a higher rate of interest.*

NOTES TO SECTION 123

This section reproduces s. 89 of the Act of 1925 as amended by s. 75 of the Act of 1935. The words in square brackets were added by and the words

in italics repealed by s. 6 of the Local Authorities Loans Act, 1945 (37 Halsbury's Statutes 311).

(a) **Section 91.**—See p. 224, *ante*. See, however, the provisions of s. 2 (1) of the Local Authorities Loans Act, 1945. That sub-section provides :

" 2 (1) The power of the Public Works Loan Commissioners to make loans under s. 9 of the Public Works Loans Act, 1875, shall include power to make loans to any local authority for any purpose for which the authority has power to borrow by virtue of any enactment."

(b) For the power to provide such houses, see s. 97, p. 228, *ante*.

For current rates of interest applying to all loans to local authorities see Circular 125/46 of June 21, 1946. As from June 1, 1946 they are :

Loans for not more than 5 years	1½ per cent.
Loans for 5 to 15 years	2 per cent.
Loans for more than 15 years	2½ per cent.

124. Power of county councils to lend to local authorities.—A county council may lend to any local authority within their area any money which that authority have power to borrow for the purposes of this Act, subject to any conditions (including conditions with respect to the borrowing by a local authority from the county council of the money so raised) which the Minister may by general or special order impose.

NOTES TO SECTION 124

This section reproduces s. 94 of the Act of 1925.

For the conditions which the Minister has imposed, see the Housing (Loans by County Councils) Order, 1925, p. 478, *post*. "Borrowing by one local authority of funds which belong to another local authority and which under any enactment the latter authority has power to lend" is exempted from the provisions of s. 1 of the Local Authorities Loans Act, 1945 (37 Halsbury's Statutes 309). See Regulation 2 (1) (f) of the Local Authorities Loans (Exemptions) Regulations, 1945, S. R. & O., 1945, No. 680. See General Note to s. 118, *ante*.

125. Power of local authority carrying out operations outside its own area to lend to other authority concerned.—Where housing operations under Part V of this Act are being carried out by a local authority outside their own area (a), that authority shall, subject to the approval of the Minister, have power to advance to the council of any county, borough or district in which the operations are being carried out such sums as may, by reason of any agreement made with that council under that Part (b), be required by that council in connection with the construction by them of any works which are necessary for the purposes, or incidental to the carrying out, of the operations.

NOTES TO SECTION 125

This section reproduces s. 93 of the Act of 1925 as amended by the Act of 1930, Schedule V. See General Notes to ss. 124 and 118, *ante*.

(a) **Outside their area.**—For power to carry out housing operations outside their area, see ss. 72 and 81, pp 191, 201, *ante*.

(b) **Agreements made under Part V.**—See s. 81, p. 201, *ante*.

Subscriptions to Local Savings Committees.

126. Subscriptions by local authorities to local savings committees.—A local authority for the purposes of Part V of this Act may, subject to the approval of the Minister, contribute to the expenses of any local savings committee established for their district or any part thereof.

NOTE TO SECTION 126

This section reproduces s. 97 of the Act of 1925.

Capital Moneys.

127. Application of purchase money, &c.—The proceeds of the sale of any land acquired by a local authority for any of the purposes of this Act, and any other capital moneys received by a local authority in respect of any transaction under section thirty (a), section thirty-two (b), section thirty-eight (c), or section seventy-nine (d) of this Act shall be applied, with the sanction of the Minister, either in the repayment of debt or for any other purpose for which capital money may properly be applied :

Provided that capital moneys received in respect of any transaction under the last mentioned section may be applied by the authority in or towards the purchase of other land for the purposes of Part V of this Act (e).

NOTES TO SECTION 127

This section consolidates the provisions relating to the application of capital moneys contained in ss. 59 (3) and 96 of the Act of 1925, ss. 5 (2) and 6 (2) of the Act of 1930 and s. 66 (2) of the Act of 1935.

(a) **Section 30.**—This section gives authorities power to deal with land acquired in, surrounded by or adjoining a clearance area, see p. 114, *ante*.

(b) **Section 32.**—This section gives power to a local authority to purchase cleared land which the owners have failed to develop, see in particular sub-s. (5), p. 118, *ante*.

(c) **Section 38.**—This section gives local authorities powers to deal with an improvement area, see in particular sub-s. (5), p. 131, *ante*.

(d) **Section 79.**—This section gives local authorities power to deal with land purchased or appropriated, see p. 198, *ante*.

(e) **Purposes for which land may be acquired under Part V.**—See s. 73, p. 194, *ante*.

Accounts.

128. Obligation to keep Housing Revenue Account.—Subject to the provisions of this section, every local

authority for the purposes of Part V of this Act (*a*) shall keep an account (to be called the Housing Revenue Account (*b*)) of the income and expenditure of the authority in respect of—

- (a) all houses (*c*) and other buildings (*d*) which at any time after the sixth day of February, nineteen hundred and nineteen, have been provided by a local authority under Part V of this Act (*e*);
- (b) all land which at any time after the said date a local authority have acquired or appropriated (*f*) for the purposes of Part V of this Act, or are deemed to have acquired under Part V of this Act by virtue of subsection (6) of section thirty-six of this Act (*g*);
- (c) all dwellings in respect of which either—
 - (i) the authority have received assistance under section one of the Housing (Rural Workers) Act, 1926 (*h*); or
 - (ii) the Minister has undertaken to pay a contribution to the authority under subsection (2A) of section four of that Act; and
- (d) such other working-class houses as the authority with the consent of the Minister may from time to time determine.

NOTES TO SECTION 128

General Note.—This section takes the place of s. 42 of the Act of 1935. This and the succeeding sections provide for a complete system of keeping accounts with respect to houses provided by local authorities and supersedes all other systems of account. Provision is made for the accounts of local authorities by the Local Government Act, 1933, s. 219 (26 Halsbury's Statutes 424). All such accounts must now be audited by a district auditor. By *ibid.*, s. 243 (26 Halsbury's Statutes 437), that section extends to the administrative County of London. Houses in respect of which a local authority are obliged to keep a housing revenue account under this section are excluded from the operation of the Rent and Mortgage Interest Restrictions Act, 1939. See s. 3 (1) (*c*) of that Act (32 Halsbury's Statutes 974).

(a) **Local authorities for the purposes of Part V.**—See s. 1, p. 47, *ante*, and for the administrative County of London, s. 103, p. 230, *ante*.

(b) **"Housing Revenue Account."**—As to the matters to be debited and credited to this account, see next section.

(c) **"Houses."**—For the meaning of this term for the purposes of any provisions of the Act relating to the provision of housing accommodation, see s. 188 (3), p. 314, *post*.

(d) **"Other buildings."**—For the power of local authorities to provide other buildings, see s. 80, p. 200, *ante*.

(e) **"Under Part V of this Act."**—This will include houses and other buildings provided under Part III of the Act of 1925 as amended by subsequent Acts, see s. 189 (2), p. 319, *post*. This will include temporary structures provided under the Housing (Temporary Accommodation) Act, 1944; see s. 1 of that Act, p. 404, *post*. See also note to s. 3, *ibid.*, p. 405, *post*.

(f) "**Acquired or appropriated.**"—For powers to acquire, see s. 73, and for powers to appropriate, s. 76, pp. 194, 196, *ante*.

(g) **Section 36 (6).**—This refers to land acquired for the purpose of re-housing persons displaced by the carrying out of re-development in accordance with a re-development plan, see p. 127, *ante*.

(h) "**Housing (Rural Workers) Act, 1926.**"—The Housing (Rural Workers) Acts, 1926 to 1942, expired on September 30, 1945, and no further applications under those Acts can now be received.

129. Credits and debits in Housing Revenue Account.—(1) In each financial year a local authority who are required to keep a Housing Revenue Account shall carry to the credit of the account amounts equal to—

- (a) the income of the authority for that year from rents (exclusive of any amounts included therein in respect of rates or water charges) in respect of such houses, buildings, land and dwellings as are mentioned in the last foregoing section ;
- (b) the Exchequer contributions (*a*), if any, payable to the authority for that year ;
- (c) the contributions, if any, payable to the authority by the county council under section one hundred and fifteen (*b*) of this Act, for that year ;
- (d) the sums, if any, payable to the authority for that year by way of assistance under section one of the Housing (Rural Workers) Act, 1926 (*c*) ; and
- (e) the authority's contributions out of the general rate fund referred to in the Eighth Schedule (*d*) to this Act for that year ;

and shall debit to the account amounts equal to—

- (i) the loan charges which the local authority are liable to pay for that year in respect of moneys borrowed by a local authority for the purpose of the provision by them after the sixth day of February, nineteen hundred and nineteen, of housing accommodation for the working classes under Part V of this Act (*e*), or for the purpose of the execution of works in respect of which the Minister has undertaken to make a contribution under subsection (2A) of section four of the Housing (Rural Workers) Act, 1926, or in respect of which the local authority for the purposes of that Act have given assistance thereunder ;
- (ii) rents, taxes and other charges (except rates and water charges) which the authority are liable to pay for that year in respect of such houses, buildings,

land and dwellings as are mentioned in the last foregoing section ;

- (iii) the expenditure of the authority for that year in respect of the supervision and management of such houses, buildings, land and dwellings as are mentioned in the last foregoing section ;
- (iv) the contribution, if any, required to be made by the authority for that year to a Housing Repairs Account kept in accordance with the subsequent provisions of this Part of this Act ; and
- (v) the contribution, if any, required to be made by the authority for that year to a Housing Equalisation Account kept in accordance with the subsequent provisions of this Part of this Act.

(2) Where any functions of the authority in respect of any such houses, buildings, land or dwellings as are mentioned in the last foregoing section are being exercised for the time being by a Housing Management Commission (f), the provisions of the foregoing subsection shall have effect in relation thereto subject to such modifications as the Minister may direct.

(3) Where any such house, building, land or dwelling as is mentioned in the last foregoing section has been sold or otherwise disposed of (g), whether before or after the commencement of this Act, an amount equal to any income of the authority arising from the investment or other use of capital money received by the authority in respect of the transaction shall, unless the Minister otherwise directs as respects the whole or any part of such income, be carried to the credit of the Housing Revenue Account in like manner as if it had been income from rents.

(4) An amount equal to any income of the authority arising from an investment or other use of borrowed moneys in respect of which the authority are required to debit loan charges to the Housing Revenue Account shall be carried to the credit of that Account in like manner as if it had been income from rents, and where a local authority for the purposes of Part V of this Act, not being an authority who are required by virtue of the last foregoing section to keep a Housing Revenue Account, are entitled to any such income, they shall by virtue of this subsection be required to keep such an account.

(5) Where it appears to the Minister that amounts in respect of any incomings or outgoings other than as aforesaid ought properly to be credited or debited to a Housing Revenue Account, or that amounts in respect

of any of the incomings and outgoings aforesaid which ought properly to have been credited or debited thereto have not been so credited or debited, or that any amounts have been improperly credited or debited to that account, he may give directions for the appropriate credits or debits to be made, or for the rectification of the account, as the case may require.

NOTES TO SECTION 129

General Note.—This section reproduces s. 43 of the Act of 1935. It defines the items which must be credited and debited to the Housing Revenue Account in respect of each financial year beginning with the financial year commencing April 1, 1935. The following amounts must be credited to the account:

- (1) The income for the year from the rents (exclusive of any amounts included in the rents in respect of rates or water charges) of all houses, land and other buildings provided by the authority under the provisions mentioned in s. 128, *ante*.
- (2) The Exchequer contributions (if any) payable to the authority for that year. This includes Exchequer contributions payable under the Housing (Financial Provisions) Act, 1938, pp. 385 *et seq.*, *post*, and the Housing (Financial and Miscellaneous Provisions) Act, 1946, pp. 427 *et seq.*, *post*. See s. 4 of the 1938 Act, p. 392, *post*, and the Third Schedule to the Act of 1946, p. 464, *post*.
- (3) Any contribution by the county councils under s. 115 of this Act, p. 247, *ante*, or under s. 7 of the Housing (Financial Provisions) Act, 1938, p. 395, *post*, or s. 8 of the Housing (Financial and Miscellaneous Provisions) Act, 1946, p. 438, *post*.
- (4) The amounts of any grants payable to the authority for that year by way of assistance under s. 1 of the Housing (Rural Workers) Act, 1926.
- (5) The contribution payable by the authority out of the general rate fund referred to in the Eighth Schedule to this Act, p. 341, *post*; and also the general rate fund contributions payable under the Housing (Financial Provisions) Act, 1938, and the Housing (Financial and Miscellaneous Provisions) Act, 1946. (See ss. 1 (7) and 2 (3) of the 1938 Act, pp. 388, 390, *post*, and the Third Schedule to the Act of 1946, p. 464, *post*).
- (6) Unless the Minister otherwise directs any income from capital derived from the proceeds of sale or other disposition of any house, building, land or dwelling coming within s. 128, *ante*.
- (7) An amount equal to any income of the authority arising from an investment or other use of moneys borrowed by the authority for any of the purposes mentioned in para. (1) of sub-s. (1) of this section.
- (8) Any other incomings which the Minister considers ought properly to be credited to the account.
- (9) Such sums as are directed to be credited to the Housing Revenue Account by s. 21 (2) of the Housing (Financial and Miscellaneous Provisions) Act, 1946, p. 456, *post*.

The Common Council of the City of London and a metropolitan borough council are also required to carry to the credit of their Housing Revenue Account by para. 4 of the Tenth Schedule the following amounts:

- (1) The total payments made to them for that year by the L.C.C. in respect of any loss they incur in carrying out a scheme under the Act of 1919 (see para. 1 of the Tenth Schedule, p. 346, *post*).
- (2) The total amount of any supplementary contributions made to them for that year by the L.C.C. under:
 - (i) the Housing, etc., Act, 1923, s. 1 (6);
 - (ii) the Housing (Financial Provisions) Act, 1924, s. 2 (5).

- (3) The total contribution towards expenses incurred in relation to matters in respect of which a Housing Revenue Account is kept made to them for that year by the L.C.C. under :

- (i) s. 33 proviso (a) of this Act, p. 119, *ante* ;
- (ii) s. 70 of this Act, p. 189, *ante* ;
- (iii) s. 181 of this Act, p. 306, *post*.

The following amounts must be debited to the account :

- (1) The loan charges for the year in respect of moneys borrowed by the authority for the purpose of providing housing accommodation after February 6, 1919, under Part V of this Act, or for the purpose of the execution of works in respect of which the Minister has undertaken to make an Exchequer contribution under the Housing (Rural Workers) Act, 1926, or in respect of which the local authority have given assistance thereunder.
- (2) Rents, taxes and other charges (except rates and water charges which the authority are liable for in respect of their houses, etc.).
- (3) The cost of supervision and management.
- (4) The contributions, if any, required to be made by the local authority to the Housing Repairs Account in accordance with s. 131 (p. 262, *post*).
- (5) The contributions, if any, required to be made to a Housing Equalisation Account in accordance with s. 132 (p. 262, *post*).
- (6) Any other outgoings which the Minister directs should be debited to the account.

The London County Council are required by para. 5 of the Tenth Schedule to debit to their Housing Revenue Account, in addition to the amount prescribed above, the total payments made by them for that year in respect of losses incurred by a metropolitan borough council in carrying out schemes under the Act of 1919.

The section is applicable to a Housing Management Commission to whom functions of the authority have been transferred in respect of properties coming within the provisions of this section subject to any modifications which the Minister may direct.

See also Ministry of Health Memorandum E, p. 634, *post*.

(a) "**Exchequer contributions.**"—See definition in s. 188 (1), p. 311, *post*.

(b) "**Section 115.**"—This section provided for contributions payable by county councils to rural district councils which had adopted proposals for the provision of houses under that section (see p. 247, *ante*). For present county council contributions see s. 8 of the Housing (Financial and Miscellaneous Provisions) Act, 1946, p. 438, *post*. By sub-s. (4) of that section such contributions must be credited to the Housing Revenue Account. Payment of these contributions is no longer limited to rural district councils.

(c) "**Housing (Rural Workers) Act, 1926.**"—The Housing (Rural Workers) Acts, 1926 to 1942, expired on September 30, 1945, and no further applications may be made under those Acts. For the text of the 1926 Act see 13 Halsbury's Statutes 1162. The text is not reprinted in this edition.

(d) "**The Eighth Schedule.**"—This sets out the contributions to be made by local authorities out of the general rate fund from April 1, 1935, in respect of those Acts under which an Exchequer contribution was payable in 1936. By s. 6 (5) of the Housing (Financial Provisions) Act, 1938 (p. 394, *post*), and the Third Schedule to the Housing (Financial and Miscellaneous Provisions) Act, 1946 (p. 464, *post*), references in this section to the Eighth Schedule are to include references to the annual rate fund contributions under those Acts.

(e) "**Under Part V of this Act.**"—For meaning of this term, see s. 189 (2), p. 319, *post*.

(f) "**Housing Management Commission.**"—The provisions regulating Housing Management Commissions are contained in s. 87 (see p. 210, *ante*, and notes thereto).

(g) "**Sold or otherwise disposed of.**"—For the power to sell or lease land purchased for the purposes of this Act, see ss. 30, 32, 38 and 79, *ante*.

130. Disposal of balances in Housing Revenue Account.—(1) Subject to the provisions of subsection (2) of this section, at the end of each financial year any surplus shown in a Housing Revenue Account* shall, subject to application, if the local authority so determine, in making good to the general rate fund account any additional contributions under paragraph 8 of the Eighth Schedule to this Act credited to the Housing Revenue Account in any of the four last preceding financial years, be carried forward in the Account to the next financial year.

(2) Any surplus shown on the thirty-first day of March in the year nineteen hundred and forty, or any fifth succeeding year, and not required for application as afore-said, may, as the local authority with the consent of the Minister may determine, be applied, in whole or in part, in either of the following ways or partly in one of those ways and partly in the other, that is to say,—

(a) by transferring it to the Housing Repairs Account ;
or

(b) by carrying it forward in the Housing Revenue Account to the next financial year ;

and, in so far as not so applied, shall be divided into two parts, in proportion to the amount credited to the Housing Revenue Account under the last foregoing section, during the period of five years ending on the date on which the surplus is shown, in respect of Exchequer contributions on the one hand, and the amount so credited in respect of the contributions referred to in the Eighth Schedule to this Act, less any amounts made good to the general rate fund account under subsection (1) of this section, on the other hand, and an amount equal to the first of those parts shall be paid to the Minister and an amount equal to the other part shall be credited to the general rate fund account.

NOTES TO SECTION 130

This section reproduces s. 44 of the Act of 1935. The section now applies only to such residual surplus as remains after the application of surpluses in accordance with s. 21 (3) of the Housing (Financial and Miscellaneous Provisions) Act, 1946 (p. 456, *post*). Under that sub-section the Minister may approve the application of the whole or part of any surplus to any purpose connected with the provision of housing accommodation.

131. Housing Repairs Account.—(1) Subject to the provisions of this section, every local authority who are

required to keep a Housing Revenue Account shall, for the purpose of equalising so far as practicable the annual charge to their revenue in respect of the repair and maintenance of houses, buildings and dwellings in respect of which that account is to be kept, keep an account (to be called "the Housing Repairs Account") and shall in each financial year carry to the credit of that account from the Housing Revenue Account in respect of each house, building and dwelling such amount as they may think proper, not being less than [Four Pounds] *an amount equal to fifteen per cent. of the annual rent (exclusive of any amount included therein in respect of rates or water charges)*, and such amount, if any, as may be necessary to make good any deficit shown in the Housing Repairs Account at the end of the last preceding financial year.

(2) Subject to the provisions of this Part of this Act, moneys standing to the credit of the Housing Repairs Account shall be applied only in meeting expenses incurred in respect of the repair and maintenance of the houses, buildings and dwellings in respect of which the Housing Revenue Account is to be kept.

(3) If at any time it appears to the Minister, after consultation with the local authority, that the moneys standing to the credit of a Housing Repairs Account are more than sufficient for the purposes for which the account is to be kept, or that it is no longer necessary for the account to be kept, he may give such directions as he thinks proper for the reduction of the amounts to be credited to the account or the suspension of the carrying of credits thereto, or for the closing of the account and the application of any moneys standing to the credit thereof, as the case may be.

NOTES TO SECTION 131

This section reproduces s. 45 of the Act of 1935. It imposes on local authorities, who are required by s. 128 to keep a Housing Revenue Account, the duty of keeping a "Housing Repairs Account." The object of this account is to equalise the annual charge to their revenue in respect of the repair and maintenance of all properties in respect of which a Housing Revenue Account is required to be kept. In each financial year they must carry to the credit of this account a sum from the Housing Revenue Account in respect of each house, building and dwelling not less than four pounds. The Minister can, if he is satisfied that the moneys standing to the credit of the account are more than sufficient for the purposes for which the account is to be kept, or that it is no longer necessary for the account to be kept, reduce the amount to be credited to it each financial year, or suspend it, or close it altogether. The words in square brackets were substituted for the words in italics by s. 21 (4) of the Housing (Financial and Miscellaneous Provisions) Act, 1946, p. 456, *post*. The amendment is effective from April 1, 1946.

The section, as originally enacted, operates retrospectively as from April 1, 1935. As to the local authorities who are required to keep a Housing Revenue Account, see s. 128, p. 256, *ante*.

See also Ministry of Health Memorandum E, p. 634, *post*.

132. Housing Equalisation Account.—(1) Subject to the provisions of this section, every local authority who are required to keep a Housing Revenue Account shall, [if they think it desirable,] for the purpose of equalising the income of the Housing Revenue Account derived from Exchequer contributions (a) and contributions from other local authorities (b) over any period during which loan charges required to be debited to that account will be payable, keep an account (to be called the "Housing Equalisation Account") and shall, [if they keep such an account,] carry to the credit of that account from the Housing Revenue Account such sums, and shall apply an amount equal to the sums so credited in such manner, as may be prescribed.

(2) *If the local authority satisfy the Minister that it is not necessary for them to open a Housing Equalisation Account or, after they have opened such an account, that it is no longer necessary for the account to be kept open, he may give such directions as he thinks proper for relieving the authority from the duty to keep such an account, or for the closing of the account and for the application of any moneys standing to the credit thereof, as the case may be.*

NOTES TO SECTION 132

General Note.—This section reproduces s. 46 of the Act of 1935. The words in square brackets were added by and sub-s. (2) was repealed by s. 21 (5) of the Housing (Financial and Miscellaneous Provisions) Act, 1946, p. 456, *post*. Since under the 1946 Act Exchequer and rate fund contributions are both for sixty years and coincide with the normal repayment period of housing loans, an equalisation account is no longer necessary.

See Housing Acts (Equalisation Account) Regulations, 1947; S. R. & O., March 3, 1947, No. 379, p. 553, *post*.

See also Ministry of Health Memorandum E, p. 634, *post*.

(a) "Exchequer contributions."—See s. 188 (1), p. 311, *post*.

(b) "Contributions from other local authorities."—As to contributions by county councils to district councils, see s. 115, p. 247, *ante*, s. 7 of the Housing (Financial Provisions) Act, 1938, p. 395, *post*, and s. 8 of the Housing (Financial and Miscellaneous Provisions) Act, 1946, p. 438, *post*, and as to contributions by the London County Council, see s. 134, p. 266, *post*, and the Tenth Schedule, p. 346, *post*.

133. Temporary application of moneys in housing accounts.—(1) An amount equal to any moneys standing to the credit of the Housing Repairs Account or the

Housing Equalisation Account of a local authority, and not for the time being required for the purposes for which they will ultimately be applicable, may be used by the authority for the purpose of any statutory borrowing power possessed by them subject to the conditions specified in subsection (2) of this section, and so far as not so used shall be invested temporarily in statutory securities (other than securities created by the authority), and an amount equal to any income arising from such investment shall be credited to the account.

(2) The conditions subject to which moneys may be used as mentioned in subsection (1) of this section shall be the following, that is to say,—

- (a) the moneys so used shall be repaid to the account out of the general rate fund within the period, and by the methods, within and by which a loan raised under the statutory borrowing power would be repayable :

Provided that the authority shall repay to the account the moneys so used or the balance thereof for the time being outstanding, as the case may be, as and when required for the purposes of the account, and may make such repayment at any time within the period aforesaid, and in either case the repayment shall be made out of the general rate fund or out of moneys which would have been applicable to the repayment of a loan if raised under the statutory borrowing power ;

- (b) in the accounts of the general rate fund an amount equal to interest (calculated at such rate as may be determined by the authority to be equal as nearly as may be to the rate of interest which would be payable on a loan raised on mortgage under the statutory borrowing power) on any moneys so used and for the time being not repaid shall be credited to the account and debited to the undertaking or purpose with reference to which the moneys are so used ;
- (c) the statutory borrowing power shall be deemed to be exercised by such use as fully in all respects as if a loan of the same amount had been raised in exercise of the power, and the provisions of any enactment as to the re-borrowing of sums raised under the statutory borrowing power shall apply accordingly.

NOTES TO SECTION 133

This section reproduces s. 47 of the Act of 1935. It enables a local authority to utilise any moneys standing to the credit of the Housing Repairs Account or the Housing Equalisation Account not being required for the time being for the purposes for which those accounts are kept. The power is limited to utilising the money for the purpose of any statutory borrowing possessed by them, subject to the conditions set out in the section. Any credit balance not so used must be invested temporarily in statutory securities (other than securities created by the authority).

The general provisions as to borrowing by local authorities are now contained in the Local Government Act, 1933, ss. 198-203 (26 Halsbury's Statutes 414-416).

Modifications as to London.

134. Modification as to London of financial provisions.—This Part of this Act and the Seventh and Eighth Schedules to this Act shall, in the application thereof to the administrative county of London, have effect subject to the modifications specified in the Tenth Schedule to this Act and the provisions in that behalf contained in the said Tenth Schedule shall have effect with respect to the determination of the amount of Exchequer contributions payable to the London County Council in respect of schemes to which section seven of the Act of 1919 applies (other than schemes for the provision of houses for persons in the employment of, or paid by, a county council or a statutory committee thereof) and to payments to metropolitan borough councils in relation to such schemes.

NOTES TO SECTION 134

General Note.—This section takes the place of s. 50 of the Act of 1935. It makes applicable to the administrative County of London the modifications of this Part of the Act and of the Seventh and Eighth Schedules contained in the Tenth Schedule. The section also makes applicable to the administrative County of London the provisions contained in the Tenth Schedule with respect to the determination of the amount of Exchequer contributions payable to the London County Council in respect of schemes to which s. 7 of the Act of 1919 applies and to payments to metropolitan borough councils in respect of such schemes. For current annual rate fund contributions, see ss. 5 to 8 of the Housing (Financial and Miscellaneous Provisions) Act, 1946, pp. 433 *et seq.*, *post*. See also s. 114, *ante*, as amended by s. 6 (4) of the Housing (Financial Provisions) Act, 1938, p. 394, *post*, and s. 20 of the Housing (Financial and Miscellaneous Provisions) Act, 1946, p. 455, *post*. Payment of an Exchequer contribution is no longer conditional on the payment of a rate fund contribution; but where a local authority is in default suspension or reduction of the Exchequer contribution is within the discretion of the Minister. See also notes to the Eighth Schedule, p. 343, *post*.

Modifications of the provisions relating to schemes under s. 7 of the Act of 1919.—S. 7 of the Act of 1919, which *inter alia* provided for Exchequer contributions to local authorities who carried out housing schemes under the section, and s. 8 of the Housing Act, 1921, which provided for an annual payment to be made by the London County Council to metro-

politan borough councils who carried out schemes under the above-mentioned s. 7, were repealed by s. 6 of the Act of 1923. The repeals did not, however, affect the liability of the Minister or of the London County Council to make payments under these sections respectively. The provisions with respect to the annual payments to be made under them were modified by s. 45 of the Act of 1930, repealed by s. 99 and Part I of the Seventh Schedule of the Act of 1935.

Under the Tenth Schedule as from April 1, 1935, the following provisions apply:

- (a) The payments to be made by the London County Council to a metropolitan borough council in respect of s. 7 for each financial year are to be an amount equal to the loss incurred by the council in carrying out a scheme under the Act of 1919. The loss for the year is the amount by which the estimated expenditure exceeds the estimated income, such expenditure and income to be ascertained in accordance with the provisions of paras. 4-7 of the Tenth Schedule.
- (b) No Exchequer contribution from this date is to be paid to a metropolitan borough under s. 7 of the Act of 1919. The Exchequer contribution payable to the London County Council for any financial year in respect of such schemes is the amount (if any) by which the aggregate of—
 - (i) the estimated loss for that year in respect of the carrying out of any such scheme by the London County Council (ascertained as provided in paras. 3-7 of the Tenth Schedule), and
 - (ii) the amount of the sums payable to the metropolitan borough councils in respect of such schemes,
 exceeds an amount equal to the product of a penny rate in the administrative County excluding the City of London.
- (c) Provision is made for contributions by metropolitan borough councils in respect of schemes under s. 7 of the Act of 1919, by para. 2 of the Tenth Schedule, which is substituted in respect of such councils for para. 1 of the Eighth Schedule. This provides for a contribution in each financial year during the remainder of the period during which loan charges in respect of money borrowed for the purposes of such scheme are payable, of the amount of any loan charges for that year in respect of loans for expenditure in connection with the scheme which was not approved by the Minister for the purposes of the Exchequer contribution.

Modifications of the Eighth Schedule.—For the purposes of s. 114, para. 3 of the Tenth Schedule modified the provisions of paras. 4 and 5 of the Eighth Schedule as respects contributions payable by the Common Council of the City of London, the London County Council and the metropolitan borough councils.

Modification of the provisions relating to Housing Accounts.—For these, see the notes to s. 129 (p. 260, *ante*). See also the amendment of law as to housing accounts contained in s. 21 of the Housing (Financial and Miscellaneous Provisions) Act, 1946, p. 455, *post*.

PART VII.—GENERAL.

Central Housing Advisory Committee.

135. Central Housing Advisory Committee.—

- (1) The Minister shall appoint a committee, to be called the Central Housing Advisory Committee, for the purpose of—

- (a) advising the Minister on any matter, relating to a temporary increase (a) of the permitted number of persons in relation to overcrowding, as respects which he is required by section sixty of this Act to consult the Committee ;
 - (b) advising Housing Management Commissions constituted under section eighty-seven of this Act on any matter as respects which such Commissions are required to consult the Committee (b) ;
 - (c) advising the Minister on any question which may be referred by him to the Committee with respect to any other matter arising in connection with the execution of the enactments relating to housing ;
 - (d) considering the operation of the enactments relating to housing and making to the Minister such representations with respect to matters of general concern arising in connection with the execution of those enactments as the Committee think desirable.
- (2) The Minister may by order make provision with respect to the constitution and procedure of the Committee, and any such order may be varied by a subsequent order.
- (3) The Minister may, out of moneys provided by Parliament, pay such expenses of the Committee as he may, with the approval of the Treasury, determine.

NOTES TO SECTION 135

General Note.—This section reproduces s. 24 of the Housing Act, 1935. The committee is purely advisory, and has no executive functions. It is appointed by the Minister who has power by order to prescribe its constitution and procedure and to vary such order by a subsequent order. Its duties are

- (1) To advise the Minister on any matter relating to a temporary increase of the permitted number of persons in relation to overcrowding, as respects which he is required by s. 60 of this Act to consult the committee.
- (2) To advise housing management commissions constituted under s. 87 on any matters with respect to which they are by their constitution bound to consult the committee.
- (3) To advise the Minister on any other matter referred to it by him in connection with the execution of any of the enactments relating to housing.
- (4) To consider the operation of the enactments relating to housing and to make to the Minister such representation with respect to matters of general concern arising in connection with the execution of those enactments as it considers desirable.

For constitution of the committee see S. R. & O., 1935, No. 1115, p. 491, *post.* The Minister has appointed a committee. Communications should be addressed to the Secretary of the Committee, Ministry of Health, Whitehall, S.W.1.

- (a) As to such temporary increase, see p. 174, *ante.*

(b) Such matters must be specified in the scheme which establishes and regulates the duties of the Housing Commission. See s. 87, p. 210, *ante*, and notes thereto.

Re-housing.

136. Standard of re-housing accommodation.—

For the purposes of the provisions of this Act which relate to the obligations of a local authority with respect to re-housing (a), or which relate to Government contributions (b) to the expenses of local authorities in providing accommodation available for displaced persons, the Minister, unless he is satisfied that owing to special circumstances some other standard of size or accommodation should be adopted—

(a) shall not approve the provision of any house which is not either—

(i) a two-storied house with a minimum of six hundred and twenty and a maximum of nine hundred and fifty superficial feet ; or

(ii) a structurally separate and self-contained flat or a one-storied house with a minimum of five hundred and fifty and a maximum of eight hundred and eighty superficial feet ;

such measurements being calculated in accordance with rules made by the Minister ; and

(b) (c) shall treat a house containing two bedrooms as providing accommodation for four persons, a house containing three bedrooms as providing accommodation for five persons, and a house containing four bedrooms as providing accommodation for seven persons.

NOTES TO SECTION 136

General Note.—This section takes the place of s. 37 of the Act of 1930. For the purposes of the provisions contained in this Act as to the obligations of a local authority with respect to re-housing, and as to Government contributions to the expenses of local authorities in providing accommodation available for displaced persons, this section lays down two rules. The Minister must not approve the provision of any house which is not either :

(a) a two-storied house with a minimum of six hundred and twenty and a maximum of nine hundred and fifty superficial feet ; or

(b) a structurally separate and self-contained flat, or a one-storied house with a minimum of five hundred and fifty and a maximum of eight hundred and fifty superficial feet ;

such measurements being calculated in accordance with rules made by the Minister.

Secondly, the Minister must treat a two-bedroom house as providing accommodation for four persons, a three-bedroom house as accommodating five persons, and a four-bedroom house as accommodating seven persons.

See also the conditions contained in s. 72 (3), p. 192, *ante*. See also Circular 200/45 of November 15, 1945, and the "Housing Manual" of 1944. Under Circular 104/45 of June 1, 1945, local authorities are asked to state the superficial area of each type amongst the information which is to accompany tenders submitted for approval. For information to be submitted with tenders see Memo. 289/Housing accompanying Circular 104/45.

(a) **Obligations with respect to re-housing.**—For the obligations of local authorities with respect to rehousing, see ss. 45 and 71, pp. 146, 191, *ante*.

(b) **"Government contributions."**—See s. 105, p. 235, *ante*; ss. 1 to 5 of the Housing (Financial Provisions) Act, 1938, pp. 386 *et seq.*, *post*; and for current Government contributions see ss. 1 to 7 of the Housing (Financial and Miscellaneous Provisions) Act, 1946, pp. 429 *et seq.*, *post*.

(c) **Paragraph (b).**—See also s. 68, definition of "suitable alternative accommodation," p. 185, *ante*.

137. Re-housing obligations of undertakers.—

Where under the powers given by any local Act, or Provisional Order or Order having the effect of an Act (not being an order made under this Act), any land is acquired, whether compulsorily or by agreement, by any authority, company or person, or where any land is so acquired compulsorily under any general Act other than this Act, the provisions set out in the Eleventh Schedule (a) to this Act shall apply with respect to the provision of housing accommodation for persons of the working classes.

NOTES TO SECTION 137

This section reproduces s. 98 of the Act of 1925 as amended by the Act of 1930, Schedule V. This section does not apply to acquisitions under Part I of the Town and Country Planning Act, 1944; see, s. 30 of that Act (Hill's Town and Country Planning, 3rd Edition, p. 301).

Prior to the passing of the 1903 Act it was necessary under the Standing Orders of Parliament to insert in every local bill, or bill to confirm a Provisional Order, which gave, revived or extended power to take land compulsorily or by agreement or which extended the time for taking land compulsorily, clauses providing for the re-housing of persons belonging to the labouring classes displaced by the acquisition of such land. Clauses similar to those in the Eleventh Schedule to this Act were accordingly inserted. In the above section the provisions in the schedule are made applicable to land acquired by compulsion or agreement, under powers given by any local Act or Provisional Order or Order having the effect of an Act (except orders under this Act), and also to land acquired compulsorily under any general Act (other than this Act).

(a) **"Eleventh Schedule."**—See p. 348, *post*.

Provisions as to Building Byelaws, &c.

138. Relaxation of building byelaws.—(1) Where in connection with housing operations to which this section applies new buildings are constructed, or public streets and roads are laid out and constructed, in accordance with plans and specifications approved by the Minister, the

provisions of any building byelaws shall not, so far as they are inconsistent with the plans and specifications so approved, apply to those buildings and streets, and, notwithstanding the provisions of any other Act, any public street or road laid out and constructed in accordance with those plans and specifications may be taken over and thereafter maintained by the local authority.

(2) Where the Minister has approved plans and specifications which in certain respects are inconsistent with the provisions of any building byelaws in force in the district in which the works are to be executed, any proposals for the erection therein of houses and the laying out and construction of new streets which do not form part of housing operations to which this section applies may, notwithstanding those provisions, be carried out if the local authority are, or, on appeal the Minister is, satisfied that they will involve departures from such provisions only to the like extent as in the case of the plans and specifications so approved, and that, where such plans and specifications have been approved subject to any conditions, the like conditions will be complied with in the case of proposals to which this subsection applies.

(3) As respects the administrative county of London, the Minister shall not approve for the purposes of subsection (1) of this section any plans and specifications inconsistent with the provisions of any building byelaws in force in the county except after consultation with the London County Council on the general question of the relaxation of such provisions in connection with housing operations.

(4) In the application of subsection (2) of this section to the administrative county of London, references to the local authority shall be construed, in relation to matters within the jurisdiction of the London County Council, as references to them, and, in relation to other matters, as references to the Common Council of the City of London or the council of a metropolitan borough as the case may be.

(5) The housing operations to which this section applies are housing operations carried out under this Act by a local authority or county council, or by a housing association or housing trust.

NOTES TO SECTION 138

General Note.—This section reproduces s. 99 of the Act of 1925 as amended by the Act of 1930, Schedule V, and s. 26 of the Act of 1935. The

section provides for a relaxation of the general rule that a local authority cannot dispense with the requirements of its byelaws.

Sub-section (1) does not apply to houses erected by private persons upon an undertaking by the local authority to grant assistance under s. 91, *ante*, nor did it apply to such an undertaking made under the Housing Acts, 1923 or 1924 (*William Bean & Sons v. Flaxton R.D.C.*, [1929] 1 K. B. 450; Digest Supp.), but sub-s. (2) applies to any buildings or streets in which a relaxation has been permitted under sub-s. (1).

Cf. this power with the provisions of s. 188 (4), p. 314, *post*.

See also the power of the Minister to revoke byelaws contained in s. 141, *post*, and the power of the L.C.C. to suspend, alter or relax byelaws in s. 140 (5), p. 273, *post*. In Circular 80/46 of April 16, 1946, the Minister states that some amendment of building byelaws may be necessary to meet special conditions associated with prefabrication. During the period until amendment he is prepared to sanction under sub-s. (1) permanent prefabricated houses of approved types which do not comply strictly with the byelaws.

Approval of temporary structures under the Housing (Temporary Accommodation) Act, 1944, is not an approval for the purposes of sub-s. (2) of this section. See s. 4 (4) of the 1944 Act, p. 407, *post*.

139. Building byelaws not to apply to certain buildings.—Subject to any conditions which may be prescribed by the Minister, the provisions of any building byelaws (a) shall not apply to any new buildings and new streets constructed and laid out by a local authority (b) or county council in accordance with plans and specifications approved by the Minister of Agriculture and Fisheries under the Small Holdings and Allotments Acts, 1908 to 1926, or any Act amending those Acts.

NOTES TO SECTION 139

This section reproduces s. 24 (4) of the Housing, Town Planning, etc., Act, 1919, repealed by s. 190 and the Twelfth Schedule.

(a) "**Building byelaws.**"—This term is defined by s. 188 (1), p. 311, *post*

(b) "**Local authority.**"—See s. 1, p. 47, *ante*.

140. Provisions as to byelaws relating to new streets.—(1) For the purpose of facilitating the erection of houses, the Minister may prescribe a code of building byelaws relating to the level, width, and construction of new streets, but no such code shall have effect unless and until adopted by resolution of a local authority; and where such code or any part thereof is so adopted it shall not be necessary for the local authority to comply with the requirements of subsections (3), (4) and (5) of section two hundred and fifty of the Local Government Act, 1933 (a), or, if the byelaws are made under a local Act, the corresponding provisions of that Act, and the code or such part thereof shall have full force and effect as part of the byelaws of the local authority in substitution for such of the existing

byelaws of the authority as may be specified in the resolution.

(2) Where a local authority have approved any plans and sections for a new street, subject to any conditions imposed or authorised by any byelaws in force in the area of that authority, those conditions may be enforced at any time by the authority against the owner for the time being of the land to which the conditions relate.

(3) Where, as respects the district of any local authority, matters relating to the level, width and construction of new streets are regulated by a local Act and not by byelaws, and the local authority pass a resolution adopting the said code or any part thereof, the code or such part as aforesaid shall have full force and effect as if it formed part of the local Act in substitution for such provisions of the local Act as may be specified in the resolution.

(4) Before a resolution is passed under this section, notice of the proposed resolution shall be published in one or more newspapers circulating in the district, and when such a resolution has been passed the local authority shall, within seven days thereafter, send a copy thereof to the Minister.

(5) For the purpose of facilitating the erection of houses within the administrative county of London, the London County Council may, with the consent of the Minister, suspend, alter, or relax the provisions of any enactment or byelaw relating to the formation or laying out of new streets, or the construction of sewers or of buildings intended for human habitation; but save as provided in this subsection this section shall not apply to the administrative county of London.

NOTES TO SECTION 140

This section reproduces s. 100 of the Housing Act, 1925. No code has been prescribed under this section.

Sub-sections (2) and (5) do not, however, depend upon the adoption of a code, and are of general application.

Any conditions imposed by a local authority to which sub-s. (2) applies, must be registered as a local land charge (Land Charges Act, 1925, s. 15 (7) (c), as amended). Note that the text does *not authorise* such conditions to be imposed. For power to sanction wartime non-compliance with byelaws under sub-s. (2) see ss. 2 and 7 (1) (d) of the Building Restrictions (War-Time Contraventions) Act, 1946.

(a) **Local Government Act, 1933, s. 250 (3), (4) and (5).**—These sub-sections provide:

(3) At least one month before application for confirmation of the byelaws is made, notice of the intention to apply for confirmation shall be

given in one or more local newspapers circulating in the area to which the byelaws apply.

- (4) For at least one month before application for confirmation is made, a copy of the byelaws shall be deposited at the offices of the authority by whom the byelaws are made, and shall at all reasonable hours be open to public inspection without payment.
- (5) The authority by whom the byelaws are made shall, on application, furnish to any person a copy of the byelaws, or of any part thereof, on payment of such a sum, not exceeding sixpence for every hundred words contained in the copy, as the authority may determine.

141. Power to Minister to revoke unreasonable byelaws.—(1) If the Minister is satisfied, by a local inquiry or otherwise, that the erection of any buildings within any borough or urban or rural district is, or is likely to be, unreasonably impeded in consequence of any byelaws with respect to new streets or buildings in force therein, the Minister may require the local authority to revoke those byelaws or to make such new byelaws as he may consider necessary for the removal of the impediment.

(2) If the local authority do not within three months after the requisition comply therewith, the Minister may himself revoke the byelaws, and make such new byelaws as he considers necessary for the removal of the impediment, and those new byelaws shall have effect as if they had been duly made by the local authority and confirmed by the Minister.

NOTES TO SECTION 141

This section reproduces s. 101 of the Act of 1925.

There are various byelaws which might fall within this section. Take, for example, the case where the provision of roads of a certain width is required by the byelaws. Such roads are often unnecessary, and the cost of the land and of making them is so great that workmen's dwellings cannot be erected at a remunerative rate unless the rents are unreasonably high. It has been found that narrow roads may be safely allowed if the distance between the lines of buildings on both sides is sufficiently wide to permit of subsequent widening.

The Courts have power to declare a byelaw unreasonable, but this power will not be exercised unless the byelaw is manifestly partial and unequal in its operation between different classes, or unjust, or made in bad faith, or clearly involving an unjustifiable interference with the liberty of those subject to it (*Kruse v. Johnson*, [1898] 2 Q. B. 91; 13 Digest 326, 631; *Thomas v. Sulzers*, [1900] 1 Ch. 10; 25 Digest 435, 327). Byelaws which impede the erection of houses in rural districts have been held valid as not falling within the principle enumerated in these cases (*Salt v. Scott Hall*, [1903] 2 K. B. 245; 38 Digest 196, 327; *Pomeroy v. Malvern Urban District Council* (1903), 67 J. P. 375; 38 Digest 197, 329). The object of the section is evidently to give the Minister of Health a wider power than that exercised by the Courts, and to enable him to set aside a byelaw which, reasonable enough in itself, nevertheless unreasonably impedes the erection of dwelling-houses or other buildings.

*Provisions as to Acquisition, &c. of Land.***142. Protection for amenities of locality, &c.—**

(1) A local authority in preparing any proposals for the provision of houses, or in taking any action under this Act, shall have regard to the beauty of the landscape or countryside and the other amenities of the locality, and the desirability of preserving existing works of architectural, historic or artistic interest, and shall comply with such directions, if any, in that behalf as may be given to them by the Minister.

(2) Nothing in this Act shall authorise the acquisition for the purposes of this Act of any land which is the site of an ancient monument or other object of archaeological interest.

NOTES TO SECTION 142

Sub-section (1) reproduces s. 38 of the Act of 1930 and sub-s. (2) reproduces s. 105 of the Act of 1925.

Cf. with this section the Local Government Act, 1933, s. 179 (26 Halsbury's Statutes 403), and the Town and Country Planning Act, 1932, Schedule III, Part II (25 Halsbury's Statutes 531).

As to "Ancient Monuments" see the Ancient Monuments Consolidation and Amendment Act, 1913 and the Ancient Monuments Act, 1931.

Sub-s. (2) has been repealed in so far as compulsory acquisition under Part V is concerned by the Fourth Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, p. 693, *post*. For the protection of ancient monuments, etc., under that Act see para. 12 of Part III. of the First Schedule thereto.

143. Provisions as to commons and open spaces.

—(1) Where any order under this Act authorises the acquisition or appropriation (a) to any other purpose of any land forming part of any common, open space, or allotment, the order, so far as it relates to the acquisition or appropriation of such land, shall be provisional (b) only, and shall not have effect unless and until it is confirmed by Parliament, except where it provides for giving in exchange for such land other land, not being less in area, certified by the Minister after consultation with the Minister of Agriculture and Fisheries to be equally advantageous to the persons, if any, entitled to commonable or other rights and to the public.

(2) Before giving any such certificate, the Minister shall give public notice of the proposed exchange, and shall afford opportunities to all persons interested to make representations and objections in relation thereto, and shall, if necessary, hold a local inquiry (c) on the subject.

(3) An order which authorises such an exchange shall

provide for vesting the land given in exchange in the persons in whom the common, open space, or allotment was vested, subject to the same rights, trusts, and incidents as attached to the common or open space or allotment, and for discharging the part of the common, open space, or allotment acquired or appropriated from all rights, trusts, and incidents to which it was previously subject.

(4) For the purposes of this Act, the expression "common" includes any land subject to be enclosed under the Inclosure Acts, 1845 to 1882, and any town or village green; the expression "open space" means any land laid out as a public garden or used for the purposes of public recreation, and any disused burial ground (*d*); and the expression "allotment" means any allotment set out as a fuel allotment or a field garden allotment under an Inclosure Act.

NOTES TO SECTION 143

General Note.—This section reproduces s. 103 of the Act of 1925 as amended by the Act of 1930, Schedule V and the Act of 1935, Schedule VI, Part II. This section no longer applies to acquisitions under Part V. See Fourth Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, p. 693, *post*. The acquisition of commons and open spaces under Part V is now subject to the provisions of Part III of the First Schedule to that Act, p. 674, *post*.

Note that an order for the acquisition of any land to which this section applies is provisional only and has no effect until confirmed by Parliament unless the Minister gives a certificate in accordance with the conditions contained in the section. It would appear that a writ of prohibition will lie to the Minister if he exceeded his jurisdiction in granting a certificate under sub-s. (1) by entertaining matters which would result in his final decision being liable to be quashed on *certiorari*; see *R. v. Minister of Health, Ex parte Villiers*, [1936] 2 K. B. 29; [1936] 1 All E. R. 817; 100 J. P. 212; Digest Supp. It is submitted that the Minister in granting a certificate has a discretion to exercise which he must exercise in accordance with the powers conferred on him.

It appears that this section does not implicitly repeal a special statute, see *R. v. Minister of Health, Ex parte Villiers, supra*. Where a similar certificate to that mentioned in sub-s. (1) is granted under para. 11 of the First Schedule of the Acquisition of Land (Authorisation Procedure) Act, 1946, p. 675, *post*, in respect of an acquisition under Part V the validity of the certificate can only be challenged under the procedure set out in Part IV of the First Schedule to that Act, p. 677, *post*. Certification under the 1946 Act is by the Minister of Agriculture and Fisheries in the case of commons and allotments and the Minister of Town and Country Planning in the case of open spaces.

(a) "**Appropriation.**"—For the power to appropriate see s. 76, p. 196, *ante*.

(b) "**Provisional Order.**"—As to procedure with regard to provisional orders, see Local Government Act, 1933, s. 160. This section now applies only to such acquisitions as are excluded from the operation of s. 1 (1) of the Acquisition of Land (Authorisation Procedure) Act, 1946; see p. 655, *post*.

(c) "**Local inquiry.**"—As to inquiries by the Minister, see s. 178, *post*.

(d) "**Disused burial ground.**"—As to building on disused burial grounds, see the Disused Burial Grounds Act, 1884, and see also *Ex parte Uxbridge U.D.C.* (1914), 30 T. L. R. 448; 7 Digest 556, 331; *Ex parte St. Marylebone B.C.* (1920), 36 T. L. R. 256; 7 Digest 557, 333; *Ex parte West Riding C.C.* (1935), 52 T. L. R. 111; Digest Supp.

144. Provisions as to land in neighbourhood of royal palaces or parks.—(1) Where any land proposed to be acquired or appropriated under this Act is situate within the prescribed distance from any of the royal palaces or parks, the local authority shall communicate with the Commissioners of Works, and the Minister shall, before authorising the acquisition or appropriation of the land or the raising of any loan for the purpose, take into consideration any recommendations which the local authority may have received from the Commissioners of Works with reference to the proposal.

(2) For the purposes of this section, "prescribed" means prescribed by regulations made by the Minister after consultation with the Commissioners of Works.

NOTES TO SECTION 144

This section reproduces s. 104 of the Act of 1925 as amended by the Act of 1930, Schedule V. This section has been repealed in so far as acquisitions under Part V are concerned by the Fourth Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, p. 693, *post*.

145. Power of entry on land acquired.—(1) Where by an order made and confirmed under Part III or Part V of this Act a local authority are authorised to purchase land compulsorily, then, at any time after serving notice to treat and after giving to the owner and occupier (a) of the land such notice as is hereinafter mentioned, they may enter on and take possession of the land or such part thereof as is specified in the notice without previous consent or compliance with sections eighty-four to ninety of the Lands Clauses Consolidation Act, 1845 (b), but subject to the payment of the like compensation for the land of which possession is taken, and interest on the compensation (c) awarded, as would have been payable if those provisions had been complied with.

(2) Where a local authority have agreed to purchase land for the purposes of the provisions of Part III of this Act relating to clearance areas or improvement areas or of Part V of this Act, or have determined to appropriate land (d) for any of those purposes, or have agreed to purchase land under the provisions of Part III of this Act

relating to re-development areas, subject to the interest of the person in possession thereof, and that interest is not greater than that of a tenant for a year or from year to year, then, at any time after the agreement has been made, or the appropriation has been approved by the Minister, the local authority may, after giving to the person so in possession such notice (e) as is hereinafter mentioned, enter on and take possession of the land or such part thereof as is specified in the notice without previous consent, but subject to the payment to the person so in possession of the like compensation, with such interest thereon as aforesaid, as if the local authority had been authorised to purchase the land compulsorily and that person had in pursuance of their powers in that behalf been required to quit possession before the expiration of his term or interest in the land, but without any necessity for compliance with sections eighty-four to ninety of the Lands Clauses Consolidation Act, 1845.

(3) The length of notice required to be given under the foregoing provisions of this section shall be—

- (a) in the case of land purchased or appropriated for the purposes of Part III of this Act, not less than twenty-eight days; and
- (b) in the case of land purchased or appropriated for the purposes of Part V of this Act, not less than fourteen days.

NOTES TO SECTION 145

General Note.—This section reproduces s. 106 of the Act of 1925 as amended by Schedule V of the Act of 1930 and s. 16 (2) of the Act of 1935.

The object of this section is to enable a local authority to enter upon land in respect of which they have obtained compulsory powers or which they have agreed to purchase without first having to comply with the provisions of ss. 84–90 of the Lands Clauses Consolidation Act, 1845, p. 811, *post*.

Note in connection with this section, s. 91 of the Lands Clauses Consolidation Act, 1845 (Proceedings in case of refusal to deliver possession of lands).

In *Liverpool Corporation v. Rose* (1935), 100 J. P. 62; Digest Supp., it was held that it was lawful to serve the notice to treat and the notice to enter simultaneously, and further, that if the notice to enter is served before the notice to treat, the time prescribed by the section will commence to run from the date of the service of notice to treat. Sub-s. (1) of this section has been repealed in so far as acquisitions under Part V are concerned by the Fourth Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, p. 693, *post*. Under that Act the compulsory purchase order becomes operative on the date on which notice of confirmation is published; see Part IV of the First Schedule thereto, p. 677, *post*, and entry can be made after fourteen days' notice, after notice to treat has been served. For the procedure relating to compulsory purchase under Part V see now the First and Second Schedules to the Acquisition of Land (Authorisation Procedure) Act, 1946, pp. 671 *et seq.*, *post*. See also s. 2 of that Act, p. 657, *post*, for procedure for speedy acquisition in urgent cases.

(a) "**Owner and occupier.**"—Note that if these persons are different, notice must be served on each.

(b) **Lands Clauses Consolidation Act, 1845, ss. 84-90.**—These are printed p. 811, *post*.

(c) "**Compensation.**"—As to compensation under Part III, see s. 40 and notes thereto, p. 135, *ante*, and for compensation generally, see p. 719, *post*.

(d) "**Appropriate land.**"—For the power to appropriate land, see s. 76, p. 196, *ante*.

(e) "**Notice.**"—As to service of notices by a local authority, see s. 167, p. 293, *post*.

146. Payment of purchase or compensation money by one local authority to another.—(1) Any purchase money or compensation payable in pursuance of this Act by a local authority in respect of any lands, estate, or interest of another local authority which would, but for this section, be paid into court in manner provided by the Lands Clauses Acts may, if the Minister consents, instead of being paid into court, be paid and applied as the Minister may determine.

(2) A decision of the Minister under this section shall be final and conclusive.

NOTES TO SECTION 146

This section reproduces s. 129 of the Act of 1925. The object of this section is to avoid the expenses connected with payments into and out of court, and with applications to the court for directions, see ss. 69 *et seq.* of the Lands Clauses Consolidation Act, 1845, p. 806, *post*.

Cf. with this section the Local Government Act, 1933, s. 177 (26 Halsbury's Statutes 403).

147. Exemption from s. 133 of 8 & 9 Vict. c. 18.—Section one hundred and thirty-three of the Lands Clauses Consolidation Act, 1845 (which, as amended by section two of the Rating and Valuation Act, 1925, relates to promoters making good deficiencies in land tax and general rates), shall not apply in the case of any lands of which a local authority become possessed under this Act.

NOTES TO SECTION 147

This section takes the place of s. 131 of the Act of 1925.

Section 133 of the Lands Clauses Consolidation Act, 1845, p. 825, *post*, requires undertakers to make good until the completion of any works for which they take land any deficiency of land tax and poor rate caused by the land being taken, or used, for such works. S. 2 (7) of the Rating and Valuation Act, 1925 (14 Halsbury's Statutes 620), makes provision for apportioning the general rate for the purposes of that section. The section in the text nullifies the decision in *St. Leonard, Shoreditch (Vestry) v. L.C.C.*, [1895] 2 Q. B. 104; 11 Digest 109, 52.

148. Power of local authorities to enforce covenants against owner for the time being of land.—

Where—

- (a) a local authority have sold or exchanged land acquired by them under this Act and the purchaser of the land or the person taking the land in exchange has entered into a covenant with the local authority concerning the land ; or
- (b) an owner of any land has entered into a covenant with the local authority concerning the land for the purposes of any of the provisions of this Act ;

the authority shall have power to enforce the covenant against the persons deriving title under the covenantor, notwithstanding that the authority are not in possession of or interested in any land for the benefit of which the covenant was entered into, in like manner and to the like extent as if they had been possessed of or interested in such land.

NOTES TO SECTION 148

This section reproduces s. 78 of the Act of 1935, which in turn replaced and extended the provisions of s. 110 of the Act of 1925. Section 110 applied solely to covenants entered into by a purchaser from a local authority of land acquired by the authority under the Housing Acts.

This section also gives local authorities power to enforce covenants against persons deriving title under the covenantor, although they are not in possession of or interested in any land for the benefit of which the covenant was entered into in any one of the following cases :

- (1) Where the local authority have sold land under this Act, or the purchaser has entered into a covenant with the authority concerning it ;
- (2) Where the local authority have exchanged lands under the provisions of this Act and the person taking the land in exchange has entered into such a covenant with the authority (see s. 30, p. 114, *ante*) ;
- (3) Where an owner of any land has entered into a covenant with the authority concerning the land for any of the purposes of these Acts, *e.g.* see s. 31, p. 116, *ante*.

For a discussion of the position of an authority who had not reserved adjacent land prior to this enactment, see *L.C.C. v. Allen*, [1914] 3 K. B. 642 ; 78 J. P. 449 ; 40 Digest 302, 2602.

Quære : Whether under the terms of this section the local authority could enforce a positive covenant against persons deriving title under the covenantor (*Austerberry v. Oldham Corpn.* (1885), 29 Ch. D. 750 ; 40 Digest 305, 2618).

149. Compensation in certain cases of subsidence.

—Notwithstanding anything in section fifty of the Brine Pumping (Compensation for Subsidence) Act, 1891, a local authority or county council shall be entitled to compensation in accordance with the provisions of that Act in respect of any injury or damage to any houses belonging to them which were provided under a housing scheme towards the

losses on which the Minister is liable to contribute under the Act of 1919.

NOTES TO SECTION 149

This section reproduces s. 36 of the Housing, Town Planning, etc., Act, 1919.

County Councils and local authorities were not by the Brine Pumping (Compensation for Subsidence) Act, 1891, given a right to compensation for damage through subsidence resulting from the pumping or raising of brine. The section in the text now gives this right in respect of houses belonging to them, and provided under a housing scheme towards the losses on which the Minister of Health is liable to contribute. The Minister made such contributions under s. 7 of the Act of 1919, which was repealed by the Housing Act, 1923. See now, as to contributions by the Minister, s. 111, p. 242, *ante*, and the Seventh Schedule, p. 337, *post*.

150. Donations for housing purposes.—A local authority may accept a donation of land, money or other property for any of the purposes of this Act, and it shall not be necessary to enrol any assurance with respect to any such property under the Mortmain and Charitable Uses Act, 1888.

NOTE TO SECTION 150

This section reproduces s. 114 of the Act of 1925. See also the Local Government Act, 1933, s. 268 (Acceptance of gifts) (26 Halsbury's Statutes 449).

Procedure of Local Authorities : Official Representations.

151. Joint action by local authorities.—Where, upon an application made by one of the local authorities (a) concerned, the Minister is satisfied that it is expedient that any local authorities should act jointly for any purposes of this Act, either generally or in any special case, the Minister may by order make provision for the purpose, and any provisions so made shall have the same effect as if they were contained in a Provisional Order made under section two hundred and seventy-nine of the Public Health Act, 1875, and confirmed by Parliament.

NOTES TO SECTION 151

This section reproduces s. 112 of the Act of 1925. S. 279 of the Public Health Act, 1875, was repealed by the Public Health Act, 1936, s. 346 and the Third Schedule; see now s. 6 of that Act (29 Halsbury's Statutes 326).

(a) "**Local authorities.**"—See s. 1, and note that a county council is not a local authority for the purposes of this Act.

152. Buildings situated in districts of more than one local authority.—(1) In the case of a building which

is situated partly in the district of one local authority and partly in the district of another, the local authorities may agree that this section shall have effect in relation to the building or to the building and the site thereof and any yard, garden, out-houses, and appurtenances belonging thereto or usually enjoyed therewith.

(2) Whilst such an agreement as aforesaid is in force, the Housing Acts shall have effect as if the district of such one of the local authorities as may be specified therein included the whole of the building and, if the agreement so provides, the site thereof and any such other premises as aforesaid.

NOTES TO SECTION 152

This section reproduces s. 95 of the Act of 1935.

This useful provision should not be overlooked. The agreement must obviously be in writing and it will be advisable to notify the owner of the building of its effect.

153. References by local authority to public health and housing committee.—In the case of a county council, other than the London County Council, all matters relating to the exercise and performance by the council of their powers and duties under this Act (except the power of raising a rate or borrowing money) shall stand referred to the public health and housing committee of the council, and the council, before exercising any such powers, shall, unless in their opinion the matter is urgent, receive and consider the report of that committee with respect to the matter in question, and the council may also delegate to that committee, with or without restrictions or conditions as they think fit, any of their powers under this Act, except the power of raising a rate or borrowing money and except any power of resolving that the powers of a district council in default (a) should be transferred to the council.

NOTES TO SECTION 153

General Note.—This section reproduces s. 111 (2) of the Housing Act, 1925.

Section 85 of the Local Government Act, 1933 (26 Halsbury's Statutes 352), gives local authorities power to appoint committees and to include persons who are not members of the local authority provided that at least two-thirds of the members of every committee are members of the local authority.

By s. 273 of the Public Health Act, 1936 (29 Halsbury's Statutes 498), a committee for the purposes of that Act is given power to appoint sub-committees consisting wholly or partly of members of the committee, but a majority of the members of any sub-committee must be members of the county council or local authority as the case may be.

(a) "District council in default."—See s. 169, p. 294, *post*.

154. Official representations.—(1) Every representation made by a medical officer of health (*a*) in pursuance of this Act shall be in writing (*b*).

(2) The medical officer of health of a local authority shall make an official representation (*c*) to the authority whenever he is of opinion that any house in their district is unfit for human habitation (*d*), or that any area in their district is an area which should be dealt with as a clearance area (*e*), and if any justice of the peace acting for the district, or any four or more local government electors of the district or, in the case of a rural district, the parish council of any parish within the district, complain to the medical officer of health in writing that any house is unfit for human habitation, or that any area should be dealt with as a clearance area, it shall be his duty forthwith to inspect that house or that area and to make a report to the local authority, stating the facts of the case and whether, in his opinion, the house is unfit for human habitation, or whether, in his opinion, the area should be dealt with as a clearance area, but the absence of any such complaint shall not excuse him from inspecting any house or area and making a representation thereon to the local authority.

(3) A local authority shall so soon as may be take into consideration any official representation which has been made to them.

NOTES TO SECTION 154

Sub-section (1) reproduces s. 130 (1) of the Act of 1925 and sub-ss. (2) and (3) reproduce sub-ss. (2) and (3) respectively of s. 51 of the Act of 1930.

(a) "**Medical officer of health.**"—As to the duties and status of these, see the Sanitary Officers (Outside London) Regulations, 1935, and the Sanitary Officers (London) Regulations, 1935, pp. 492 and 499, *post*.

(b) "**Writing.**"—The term includes a printed or lithographed document, see Interpretation Act, 1889, s. 20 (18 Halsbury's Statutes 1001).

(c) "**Official representations.**"—As to the meaning of this term, see s. 188 (1), p. 311, *post*, and note (c) to s. 9, p. 64, *ante*, and note (b) to s. 11, p. 73, *ante*.

(d) "**Unfit for human habitation.**"—See note (h) to s. 25, *ante*, and s. 188 (4), p. 314, *post*.

(e) "**Clearance area.**"—See ss. 25 and 26, pp. 94 *et seq.*, *ante*.

Recovery of Possession, Entry, &c.

155. Recovery of possession of buildings subject to demolition or clearance order.—(1) Where a demolition order (*a*) or a clearance order (*b*) has become operative, the local authority shall serve on the occupier of any building,

or any part of any building, to which the order relates a notice stating the effect of the order (c) and specifying the date by which the order requires the building to be vacated and requiring him to quit the building before the said date or before the expiration of twenty-eight days from the service of the notice, whichever may be the later; and if at any time after the date on which the notice requires the building to be vacated any person is in occupation of the building, or of any part thereof, the authority or any owner (d) of the building may make complaint to a court of summary jurisdiction and thereupon the court shall by its warrant in the form set out in the Schedule to the Small Tenements Recovery Act, 1838, or in a form to the like effect, order vacant possession of the building, or of the part thereof, to be given to the complainant within such period not being less than two weeks nor more than four weeks as the court may determine.

(2) Any expenses incurred by a local authority under this section in obtaining possession of any building or of any part of a building may be recovered by them from the owner, or from any of the owners, of that building summarily as a civil debt (e):

Provided that this subsection shall not have effect in the case of expenses incurred in obtaining possession for the purposes of a demolition order made under section fifty-four of this Act.

(3) Any person who, knowing that a demolition order or a clearance order has become operative and applies to any building, enters into occupation of that building, or of any part thereof, after the date by which the order requires that building to be vacated, or permits any other person to enter into such occupation after that date, shall be liable on summary conviction (f) to a fine not exceeding twenty pounds and to a further fine of five pounds for every day, or part of a day, on which the occupation continues after conviction.

NOTES TO SECTION 155

General Note.—This section reproduces s. 39 of the Act of 1930 as amended by s. 61 (d) of the Act of 1935.

On a clearance or demolition order becoming operative the local authority are required by this section to serve a notice on the occupier stating

- (a) the effect of the order;
- (b) the date by which the order requires the building to be vacated;
- (c) that he must quit before the said date or before the expiration of twenty-eight days from the service of the notice, whichever is the later.

If after such date the building is still occupied, either the local authority

or the owner may complain to a court of summary jurisdiction, which court may order vacant possession of the building to be given to the complainant within such period, not being less than two nor more than four weeks, as they may determine. Where the local authority make the complaint they may recover any expenses they may incur in obtaining possession of the building from the owner or any of the owners thereof. And sees. 156 as to the exclusion of the Rent Restrictions Acts in such cases.

(a) "**Demolition order.**"—See s. 11, p. 70, *ante*.

(b) "**Clearance order.**"—See s. 26, p. 103, *ante*, and Third Schedule, p. 331, *post*.

(c) "**Notice stating the effect of the order.**"—See Forms Nos. 8 and 17 of S. R. & O., 1937, No. 78, pp. 510 and 518, *post*.

(d) "**Owner.**"—Defined by s. 188 (1) as "a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the building or land, whether in possession or in reversion, and includes also a person holding or entitled to the rents and profits of the building or land under a lease or agreement, the unexpired term whereof exceeds three years."

(e) "**Civil debt.**"—The procedure to recover as a civil debt is by complaint to a court of summary jurisdiction, and such court is authorised to make an order for the payment. See Summary Jurisdiction Act, 1879, s. 35 (11 Halsbury's Statutes 342). A civil debt can also be recovered under the same Act by distress, but a warrant of commitment cannot be issued to enforce it, except upon judgment summons and proof of the defendant's means to pay.

(f) "**Liable on summary conviction.**"—In proceedings for this penalty the local authority lay an information. If the defendant is convicted and fined, he may be sent to prison in default of distress. Houses affected by this provision may in certain circumstances be used as a temporary wartime measure under licence granted by the housing authority under Regulations 68A and 68AA of the Defence (General) Regulations, 1939.

156. Recovery of possession of controlled houses.

—(1) Nothing in the Rent and Mortgage Interest Restrictions Acts, 1920 to 1933, as amended by any subsequent enactment shall be deemed to affect the provisions of this Act relating to the obtaining possession of a house with respect to which a demolition order or a clearance order has been made, or to prevent possession being obtained—

- (a) of any house possession of which is required for the purpose of enabling a local authority (a) to exercise their powers under any enactment relating to the housing of the working classes ;
- (b) of any house possession of which is required for the purpose of securing compliance with any bye-laws made for the prevention of overcrowding ;
- (c) of any house possession of which is required for the purpose of enabling re-development in accordance with a re-development plan to be proceeded with ;
- (d) of any premises by any owner (b) thereof in a case where an undertaking has been given under

Part II of this Act that those premises shall not be used for human habitation ;

- (e) of any part of a building or underground room by any owner thereof in a case where a closing order is in force in respect thereof.

(2) (c) Where a local authority, for the purpose of exercising their powers under any enactment relating to the housing of the working classes, require possession of any building or any part of a building of which they are the owners, then, whatever may be the value or rent of the building or part of a building, they may obtain possession thereof under the Small Tenements Recovery Act, 1838, as in the cases therein provided for, at any time after the tenancy of the occupier has expired, or has been determined.

NOTES TO SECTION 156

This section consolidates the law contained in ss. 5 (1), 21 (3), and 59 of the Act of 1930 and ss. 61 (f), 86 and Schedule VI, Part I of the Act of 1935.

The section makes it possible to obtain possession of premises notwithstanding the provisions of the Rent and Mortgage Interest Restrictions Acts, 1920-1939 (10, 32 Halsbury's Statutes 332, 971).

The premises to which this section applies are as follows :

- (i) houses to which a demolition order applies (see s. 11, p. 70, *ante*) ;
- (ii) houses to which a clearance order applies (see s. 26, p. 103, *ante*) ;
- (iii) any house which is required for the purpose of enabling a local authority to exercise their powers under any enactment relating to the housing of the working classes ;
- (iv) any house possession of which is required for the purpose of securing compliance with any byelaws made for the prevention of overcrowding (see ss. 65 and 66, p. 181, *ante*) ;
- (v) any house which is required for the purpose of carrying out a re-development plan (see s. 36 p. 126, *ante*) ;
- (vi) any house in respect of which an owner has under Part II of the Act given an undertaking that the house shall not be used for human habitation ;
- (vii) any part of a building or underground room to which a closing order applies (see s. 12, p. 76, *ante*).

(a) "**Local authority.**"—See s. 1, p. 47, *ante*.

(b) "**Owner.**"—As to the definition of this term, see s. 188 (1), p. 311, *post*.

(c) **Sub-section (2).**—Note that a local authority acting under its power to recover possession is under no obligation to provide alternative accommodation, *Parry v. Harding*, [1925] 1 K. B. 111 ; 31 Digest 583, 7321. Requiring possession for reletting to another member of the working classes is an exercise of the power of management vested in the council and entitles the council to recover possession summarily (*R. v. Snell, Ex parte St. Marylebone Borough Council*, [1942] 2 K. B. 137 ; [1942] 1 All E. R. 612 ; 106 J. P. 160).

157. Power of entry for inspection, &c.—Any person authorised in writing stating the particular purpose or purposes for which the entry is authorised, by the local

authority or the Minister, may at all reasonable times, on giving twenty-four hours' notice to the occupier and to the owner, if the owner is known, of his intention, enter any house, premises, or buildings—

- (a) for the purpose of survey or valuation, in the case of houses, premises, or buildings which the local authority are authorised to purchase compulsorily under this Act ; and
- (b) for the purpose of survey and examination, in the case of a house in respect of which a notice requiring the execution of works has been served, or a demolition order or closing order, or a clearance order, has been made ; or
- (c) for the purpose of survey and examination, where it appears to the authority or Minister that survey or examination is necessary in order to determine whether any powers under this Act should be exercised in respect of the house, premises, or building ;
- (d) for the purpose of measuring the rooms of a house in order to ascertain for the purposes of Part IV of this Act the number of persons permitted to use the house for sleeping.

NOTES TO SECTION 157

This section reproduces s. 127 of the Act of 1925 as amended by the Act of 1930, Schedule V, and the Act of 1935, s. 6 (3).

See ss. 158 and 159, *post*, as to penalty for obstructing entry, etc. ; see also ss. 2 (2), p. 48, *ante*, and 161 (1), p. 289, *post*, as to a landlord's right of entry for certain purposes.

For a power to inspect houses provided under Part V of the Act, see s. 83 (2), p. 202, *ante*.

For a Form of Notice of entry under this section, see S. R. & O., 1937, No. 78, Form 1, p. 502, *post*.

See also s. 5 of the Housing (Temporary Accommodation) Act, 1944, p. 407, *post*. Under that section entry may be made for survey and valuation before authorisation where the authority contemplate acquisition of the land for the provision of temporary accommodation.

158. Penalty for obstructing execution of Act.—

If any person obstructs the medical officer of health or any officer of the local authority, or of the Minister, or any person authorised to enter houses, premises, or buildings in pursuance of this Act in the performance of anything which such officer, authority, or person is by this Act required or authorised to do, he shall, on summary conviction, be liable to a fine not exceeding twenty pounds.

NOTES TO SECTION 158

This section reproduces s. 123 of the Act of 1925.

A general power of entry is given by s. 157, *ante*. Attention is drawn to the provisions contained in the next section. As to the meaning of the word "obstruct" see *Swallow v. L.C.C.*, [1916] 1 K. B. 224; 80 J. P. 164; 44 Digest 139, 75.

159. Penalty for preventing execution of repairs, &c.—If any person, after receiving notice of the intended action—

- (a) being the occupier of any premises, prevents the owner thereof or his officers, agents, servants or workmen, from carrying into effect with respect to those premises any of the provisions of Part II of this Act; or
- (b) being the owner or occupier of any premises, prevents the medical officer of health, or any officers, agents, servants or workmen of that officer or of the local authority, from so doing; or
- (c) being an inmate of any premises, prevents the owner thereof, or any other person upon whom any obligations with respect to the premises are imposed by byelaws under this Act, from complying with such obligations;

a court of summary jurisdiction may order him to permit to be done on the premises all things requisite for carrying into effect those provisions or for the fulfilment of those obligations with respect to the premises, and if he fails to comply with the order, he shall, in respect of each day during which the failure continues, be liable on summary conviction to a fine not exceeding twenty pounds.

NOTES TO SECTION 159

This section reproduces s. 124 of the Act of 1925 as amended by the Act of 1930, Schedule V.

The provisions of this section were held to be available where a Medical Officer of Health was prevented from entering a house for the purpose of survey and examination under s. 36 of the Act of 1909 (see s. 157, p. 286, *ante*); *Arlidge v. Scrase*, [1915] 3 K. B. 325; 38 Digest 217, 510. The order of a court of summary jurisdiction must be made on complaint, and, apparently the defendant must be summoned.

Powers of the Court for Housing Purposes.

160. Power of court to determine lease where premises demolished.—(1) Where any premises in respect of which a demolition order or a clearance order has become operative (a) form the subject matter of a lease (b),

either the lessor or the lessee may apply (c) to the county court within the jurisdiction of which the premises are situate for an order under this section.

(2) Upon any such application as aforesaid, the county court judge, after giving to any sub-lessee an opportunity of being heard (d), may, if he thinks fit, make an order for the determination of the lease, or for the variation thereof, and, in either case, either unconditionally or subject to such terms and conditions (including conditions with respect to the payment of money by any party to the proceedings to any other party thereto by way of compensation, damages, or otherwise) as he may think just and equitable to impose, regard being had to the respective rights, obligations, and liabilities of the parties under the lease and all the other circumstances of the case.

(3) In this section the expression "lease" includes an under-lease and any tenancy or agreement for a lease, under-lease, or tenancy, and the expressions "lessor," "lessee," and "sub-lessee" shall be construed accordingly, and as including also a person deriving title under a lessor, lessee or sub-lessee.

NOTES TO SECTION 160

This section reproduces s. 40 of the Act of 1930 as amended by ss. 61 (e) and 87 of the Act of 1935.

This section gives the county court judge, on application being made to him by either the lessor or lessee in connection with a lease under which premises in respect of which a clearance order or demolition order has become operative are held, to determine the lease, conditionally or unconditionally, at his discretion, subject only to two limitations:

- (a) sub-lessees, if any, must be given the opportunity of being heard;
- (b) regard must be had to the respective rights, obligations and liabilities under the lease and all other circumstances of the case. Note in this connection that the implied terms imported into leases by s. 2, p.48, *ante*, creates rights and duties just as much as does any express term of the lease.
- (a) As to date when a demolition order becomes operative, see s. 15, p. 81, *ante*, and as to date when a clearance order becomes operative, see Second Schedule, p. 329, *post*.

(b) "**Lease.**"—See definition in sub-s. (3) of this section.

(c) "**Apply.**"—Applications to the County Court for the determination of a lease are governed by the County Court rules. The application must be commenced by plaint or summons and is to be called an action. When the applicant is the lessee of any premises he must join as plaintiff any person claiming title under him who consents in writing to be so joined, and as defendant any person so claiming who does not so consent.

(d) "**Opportunity of being heard.**"—See new C.C. Rules, Order L, r. 61.

161. Power of court to authorise owner to execute works on default of another owner.—(1) If it appears

to a court of summary jurisdiction, on the application of any owner (a) of a house in respect of which a notice requiring the execution of works (b) has been served, or a demolition order (c) or a clearance order (d) has been made, that owing to the default of any other owner of the house in executing any works required to be executed on the house, or in demolishing the house, the interests of the applicant will be prejudiced, the court may make an order empowering the applicant forthwith to enter on the house, and, within a period fixed by the order, execute the said works or demolish the house, as the case may be; and where it seems to the court just so to do, the court may make a like order in favour of any other owner.

(2) Before an order is made under this section, notice of the application shall be given to the local authority.

NOTES TO SECTION 161

This section reproduces s. 29 (2) and (4) of the Act of 1925 as amended by the Act of 1930, Schedule V.

(a) "**Owner.**"—See s. 188 (1), p. 311, *post*; as to the position of agents or trustees who receive the rack rent, see ss. 9 and 10, pp. 62, 67, *ante*.

For power of local authority to require information as to ownership of premises, see s. 168, p. 294, *post*.

(b) "**Notice requiring execution of works.**"—See s. 9, p. 62, *ante*.

(c) "**Demolition order.**"—See s. 11, p. 70, *ante*.

(d) "**Clearance order.**"—See s. 26, p. 103, *ante*.

162. Power of court to authorise execution of works on unfit premises or for improvement.—(1) Where it is proved to the satisfaction of the court, on an application made in accordance with rules of court by any person entitled to any interest in any land used in whole or in part as a site for houses for the working classes—

- (a) that the premises on the land are, or are likely to become, dangerous or injurious to health or unfit for human habitation, and that the interests of the applicant are thereby prejudiced; or
- (b) that the applicant should be entrusted with the carrying out of a scheme of improvement or reconstruction approved by the local authority of the district in which the land is situate;

the court may make an order empowering the applicant forthwith to enter on the land and within a period fixed by the order to execute such works as may be necessary, and may order that any lease or agreement for a lease held from the applicant and any derivative under-lease shall be

determined, subject to such conditions and to the payment of such compensation as the court may think just.

(2) The court shall include in its order provisions to secure that the proposed works are carried out and may authorise the local authority in whose district the land is situated, or which approved the scheme of improvement or reconstruction, as the case may be, to exercise such supervision or take such action as may be necessary for the purpose.

(3) For the purposes of this section, " court " means the High Court, and the Court of Chancery of the county palatine of Lancaster or Durham or the county court, where those courts respectively have jurisdiction.

(4) As respects the administrative county of London other than the City of London—

- (a) the local authority for the purposes of the provisions of this section relating to such premises as are mentioned in paragraph (a) of subsection (1) thereof shall be the metropolitan borough council ; and
- (b) both the London County Council and the council of a metropolitan borough shall within that borough be local authorities for the purposes of the provisions of this section relating to schemes of improvement or reconstruction.

NOTES TO SECTION 162

This section consolidates the law contained in ss. 30 and 53 of the Act of 1925.

It will be noted that the scheme of improvement or re-construction must be approved by the local authority. The court does not appear to have jurisdiction to compel a local authority to approve any particular scheme, nor does the language of the section impose on local authorities a duty to consider a scheme.

Note also the provisions of s. 50 (Re-development by owners) and s. 51 (Re-conditioning by owners), pp. 155 and 157, *ante*.

163. Power of court to authorise conversion of house into several tenements.—Where it is proved to the satisfaction of the county court on an application by the local authority or any person interested in a house that, owing to changes in the character of the neighbourhood in which the house is situate, the house cannot readily be let as a single tenement but could readily be let for occupation if converted into two or more tenements, and that, by reason of the provisions of the lease of or any restrictive covenant affecting the house, or otherwise, such conversion is prohibited or restricted, the court, after giving

any person interested an opportunity of being heard, may vary the terms of the lease or other instrument imposing the prohibition or restriction so as to enable the house to be so converted subject to such conditions and upon such terms as the court may think just.

NOTES TO SECTION 163

This section reproduces s. 102 of the Housing Act, 1925.

See also the power to modify or discharge restrictive covenants affecting land, contained in s. 84, Law of Property Act, 1925 (15 Halsbury's Statutes 260).

This section is not confined to houses which if converted into tenements could readily be let for occupation by *persons of the working classes*, but is of general application, and applies where the house if converted could be let for occupation by persons of any class (*Johnston v. Maconochie*, [1921] 1 K. B. 239; 31 Digest 158, 2911).

As to the construction of the section, and the conditions which must be satisfied before an order is made, see *Alliance Economic Investment Co. v. Berton* (1923), 92 L. J. K. B. 750; 87 J. P. 85; 31 Digest 173, 3066.

Cf. as to right of appeal from county courts, *National Telephone Co. v. P.M.G.*, [1913] A. C. 546; 16 Digest 132, 303; *Canada Cement Co. v. East Montreal (Town)*, [1922] 1 A. C. 249.

Notices, Orders, &c.

164. Authentication of orders, notices, &c.—(1)

An order in writing made by a local authority under this Act shall be under their seal and authenticated by the signature of their clerk or his lawful deputy.

(2) A notice, demand, or other written document proceeding from a local authority under this Act shall be signed by their clerk or his lawful deputy.

NOTES TO SECTION 164

This section reproduces s. 120 of the Act of 1925.

The distinction between an order and a notice or demand should be noticed. An order must be under seal: a notice need not. Reference to the distinction was made in *Ryall v. Cubitt Heath*, [1922] 1 K. B. 275; 38 Digest 215, 498.

In *Arlidge v. Hampstead Metropolitan Borough*, [1916] 1 Ch. 59; 38 Digest 212, 472, it was held that the document served was both an order and notice of the order.

In *West Ham Corporation v. Benabo (Charles) & Sons*, [1934] 2 K. B. 253; 98 J. P. 287; Digest Supp., a notice under s. 17 of the Act of 1930 (23 Halsbury's Statutes 409) was held bad because it was not signed by the clerk or deputy clerk.

165. Authentication of certificates.—Any document purporting to be a certificate of a local authority named therein issued for any of the purposes of this Act and to be signed by the clerk to that authority shall be received in evidence and be deemed to be such a certificate without further proof unless the contrary is shown.

NOTE TO SECTION 165

This section reproduces s. 93 of the Act of 1935.

166. Service of notices, &c., on local authorities.—

Any notice, summons, writ or other proceeding at law or otherwise required to be served on a local authority for any of the purposes of this Act may be served upon the authority by delivering it to their clerk, or by leaving it at his office with some person employed there, or by sending it by post in a registered letter addressed to the authority or their clerk at their office.

NOTE TO SECTION 166

This section reproduces s. 119 of the Act of 1925.

167. Service of notices, &c., on other persons.—

Subject to the provisions of the last foregoing section, any notice, order, or other document required or authorised to be served under this Act may be served either—

- (a) by delivering it to the person on whom it is to be served ; or
- (b) by leaving it at the usual or last known place of abode of that person ; or
- (c) by sending it in a prepaid registered letter addressed to that person at his usual or last known place of abode (a) ; or
- (d) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office or sending it in a prepaid registered letter addressed to the secretary or clerk of the company or body at that office ; or
- (e) if it is not practicable after reasonable inquiry to ascertain the name or address of an owner, lessee or occupier of land on whom it should be served, by addressing it to him by the description of “owner” or “lessee” or “occupier” of the premises (naming them) to which it relates, and by delivering it to some person on the premises or, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

NOTES TO SECTION 167

General Note.—This section reproduces s. 121 of the Act of 1925 as amended by s. 79 of the Act of 1935.

It will be observed that the various methods of service are alternatives except that service by delivery to a person on the premises or by affixing it to the premises can only be resorted to if the name or address of the owner, lessee or occupier cannot after reasonable inquiry be ascertained. Under Part I of the First Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, p. 671, *post*, the Minister may authorise service by affixing notice on, or by serving it upon some person on, the premises. And in the case of an authorisation to acquire under s. 2 of that Act (p. 657, *post*), such service is in the discretion of the acquiring authority. The procedure of the Acquisition of Land (Authorisation Procedure) Act, 1946, applies to all acquisitions under Part V.

(a) "**Last known place of abode.**"—Apparently the service will be good, although it is known that the person has left that place (*Re Follick Ex parte, Trustee* (1907), 97 L. T. 645; 4 Digest 508, 4587). Service by post is deemed to be effected by properly addressing, prepaying, and posting a letter containing the document, and (unless the contrary is proved) to have been effected at the time when the letter would be delivered in the ordinary course by post (Interpretation Act, 1889, s. 26; 18 Halsbury's Statutes 1002). Prepayment must be proved (*Walthamstow U.D.C. v. Henwood*, [1897] 1 Ch. 41; 38 Digest 171, 148).

168. Power of local authority to require information as to ownership of premises.—A local authority may, for the purpose of enabling them to serve any notice (including any copy of any notice) which they are by this Act authorised or required to serve, require the occupier of any premises and any person who, either directly or indirectly, receives rent in respect of any premises, to state in writing the nature of his interest therein and the name and address of any other person known to him as having an interest therein, whether as freeholder, mortgagee, lessee or otherwise, and any person who, having been required by a local authority in pursuance of this section to give to them any information, fails to give that information, or knowingly makes any misstatement in respect thereof, shall be liable on summary conviction to a fine not exceeding five pounds.

NOTE TO SECTION 168

This section reproduces s. 42 of the Act of 1930.

Default of Local Authorities.

169. Powers of county council and Minister in the event of default of rural district council.—(1) In any case where—

- (a) complaint is made to the council of a county by the parish council or parish meeting of any parish comprised in any rural district in the county, or by any justice of the peace acting for, or by any four

or more local government electors of, any such district, that the council of that district have failed to exercise their powers under this Act in any case where those powers ought to have been exercised ;
or

- (b) the council of a county is of opinion that an investigation should be made as to whether the council of any rural district in the county have failed as aforesaid ;

the county council may cause a public local inquiry to be held, and if, after the inquiry has been held, they are satisfied that there has been such a failure on the part of the district council, they may make an order (a) declaring the district council to be in default and transferring to themselves all or any of the powers of the district council under this Act with respect to the whole or any part of the district.

(2) An order made under the foregoing subsection may provide that section sixty-three of the Local Government Act, 1894 (b), shall, subject to such modifications and adaptations as may be specified in the order, apply in relation to the powers transferred by the order as it applies in relation to powers transferred under that Act.

(3) Where an order made under subsection (1) of this section transfers to a county council any of the powers of a district council under Part V of this Act, the provisions of section one hundred and five of this Act (c) shall, with the necessary modifications and subject as hereinafter provided, apply in relation to that county council as they apply in relation to a local authority, and the Minister shall make or undertake to make contributions accordingly :

Provided that, notwithstanding anything in any Act, or in any order made under any Act, the amount and duration of any such contribution may be reduced by the Minister at his discretion.

(4) If upon a representation (d) made to the Minister by any justice of the peace acting for, or by any four or more local government electors, of any rural district, or otherwise, it appears to the Minister that a county council have failed, or refused to make an order under subsection (1) of this section in any case where they should have made such an order, or that any such order made by a county council is defective in that it fails to transfer powers which should have been transferred, or in that it does not apply to any part of the district to which it should have applied, the Minister may, if the county

council have not made any order, himself make any order which they might have made, and if an order made by the county council is a defective order, himself make a supplementary order enlarging the scope of their order in such manner as he thinks fit.

NOTES TO SECTION 169

This section reproduces s. 35 of the Act of 1930 as extended by s. 97 (3) of the Act of 1935.

This and the next succeeding section relate to the enforcement of the powers and duties of rural authorities under this Act. As far as rural districts are concerned, the procedure is now to be as follows :

On complaint being made to the county council by the parish council or parish meeting of any parish in a rural district in the county, or by any four or more local government electors of, or any justice of the peace acting for, any such district, that the rural district council have not exercised their powers under the two Acts in any case where those powers ought to have been exercised, or where the county council consider that an investigation should be held as to whether a rural authority have so failed, the council of the county may hold a public local inquiry and as the result thereof may, by order, declare the district council to be in default and transfer to themselves all or any of the powers of the district council under the two Acts with respect either to the whole or any part of such district. The order may apply s. 63 of the Local Government Act, 1894, in relation to the powers transferred (see note (b), *infra*). Where such a transfer of power takes place, the provisions of s. 105 of this Act as to Government contributions are to apply in relation to the county council as though they were a local authority. The Minister may, however, at his discretion reduce the amount and duration of any such contribution.

The Act guards against the failure of the county council to perform these duties by empowering the Minister, on representations being made to him, that the county council have failed to make an order as above or that such order as the county council may have made is defective in that it fails to transfer powers that should have been transferred or in that it does not apply to any part of the district to which it should have applied, to make any such orders as the county council might have made, or supplementing the defective order so as to enlarge its scope in any manner he thinks fit. By virtue of s. 170, on further representations being made to the Minister that the county council have failed to exercise powers transferred to them, where those powers ought to have been exercised, the Minister, after holding a local inquiry and satisfying himself that the representations are supported by the facts, may, by order, either direct the county council to exercise those powers within such time and in such manner as he may specify, or render any of the powers exercisable by himself.

(a) **"Make an order."**—This order may, by a subsequent order, be varied or revoked, but without prejudice to the validity of anything previously done thereunder; and, when any order is so revoked, such provision as appears to be desirable may be made, either by the revoking order or by a supplemental order, with respect to the transfer, vesting and discharge of any property, debts, or liabilities acquired or incurred by the county council, or by the Minister, in exercising the powers or duties to which the order so revoked related (s. 173, p. 300, *post*).

(b) **Local Government Act, 1894, s. 63 :—**

Provisions as to county council acquiring powers of district council.—(1) Where the powers of a district council are by virtue of a resolution under this Act transferred to a county council, the following provisions shall have effect :

- (a) Notice of the resolution of the county council by virtue of which the transfer is made shall be forthwith sent to the district council and to the Local Government Board :
- (b) The expenses incurred by the county council shall be a debt from the district council to the county council, and shall be defrayed as part of the expenses of the district council in the execution of the Public Health Acts, and the district council shall have the like power of raising the money as for the defraying of those expenses :
- (c) The county council for the purpose of the powers transferred may on behalf of the district council borrow subject to the like conditions, in the like manner, and on the security of the like fund or rate, as the district council might have borrowed for the purpose of those powers :
- (d) The county council may charge the said fund or rate with the payment of the principal and interest of the loan, and the loan with the interest thereon shall be paid by the district council in like manner, and the charge shall have the like effect, as if the loan were lawfully raised and charged on that fund or rate by the district council :
- (e) The county council shall keep separate accounts of all receipts and expenditure in respect of the said powers :
- (f) The county council may by order vest in the district council all or any of the powers, duties, property, debts, and liabilities of the county council in relation to any of the said powers, and the property, debts, and liabilities so vested shall be deemed to have been acquired or incurred by the district council for the purpose of those powers.

(2) Where a rural district is situate in two or more counties a parish council complaining under this Act may complain to the county council of the county in which the parish is situate, and if the subject-matter of the complaint affects any other county the complaint shall be referred to a joint committee of the councils of the counties concerned, and any question arising as to the constitution of such joint committee shall be determined by the Local Government Board, and if any members of the joint committee are not appointed, the members who are actually appointed shall act as the joint committee.

(c) **Section 105.**—"See p. 235, *ante*. References to s. 105 in this section are to include references to ss. 1 and 2 of the Housing (Financial Provisions) Act, 1938, p. 386, *post*, and the provisions of the Housing (Financial and Miscellaneous Provisions) Act, 1946, which relate to annual Exchequer contributions. See para. 3 of the Third Schedule to the 1946 Act, p. 464, *post*.

(d) **"Representations."**—Complaint under sub-s. (1) may be made to the county council by the parish council or the parish meeting of any parish comprised in a rural district in the county. Representations under sub-s. (4) as to the failure of the county council may, however, only be made by a justice of the peace acting for, or four or more local government electors of, the rural district. This would appear to be a curious omission. If the parish council lodged the original complaint, they are not unlikely to be the persons dissatisfied at the steps or absence of steps taken by the county council. Little difficulty, however, is likely to arise in practice.

170. Powers of Minister in the event of default by county council in the exercise of transferred powers.—If upon a representation (a) made to the Minister by any justice of the peace acting for, or by any four or more local government electors of, any rural district, or otherwise, it appears to the Minister that a county council to whom powers have been transferred under the last foregoing section have failed to exercise those powers in any case where those powers ought to have been exercised, he may cause a public

local inquiry (b) to be held and if, after the inquiry has been held, he is satisfied that the county council have failed as aforesaid, he may either—

- (a) make an order (c) directing them to exercise such of the said powers, in such manner and within such time as may be specified in his order ; or
- (b) make an order rendering any of the said powers exercisable by himself.

NOTES TO SECTION 170

This section reproduces s. 36 of the Act of 1930. As to this section generally, see notes to preceding section. See also s. 2 of the Housing (Rural Authorities) Act, 1931, p. 382, *post*.

- (a) See note (d) to s. 169, p. 297, *ante*.
- (b) “**Public Local Inquiry.**”—As to this see s. 178, p. 304, *post*.
- (c) See note (a) to s. 169, *ante*.

171. Power of Minister in the event of default of local authority other than rural district council.—

(1) In any case where—

(a) a complaint is made to the Minister—

(i) as respects the council of any non-county borough or urban district, by the council of the county in which the borough or district is situate, or by any justice of the peace acting for, or by any four or more local government electors of, the borough or district ; or

(ii) as respects any local authority, not being the council of a non-county borough or of an urban or rural district, by any justice of the peace acting for, or by any four or more local government electors of, the area of the authority, that the local authority have failed to exercise their powers under this Act in any case where these powers ought to have been exercised ; or

(b) the Minister is of opinion that an investigation should be made as to whether any local authority, not being the council of a rural district, have failed as aforesaid ;

the Minister may cause a public local inquiry (a) to be held and, if after the inquiry has been held he is satisfied that there has been such a failure on the part of the local authority, he may make an order (b) declaring the authority to be in default and directing them to exercise for the purpose of remedying the default such of their powers, and

in such manner and within such time or times, as may be specified in the order.

(2) If a local authority with respect to whom an order has been made under the foregoing subsection fail to comply with any requirement thereof within the time limited thereby for compliance with that requirement, the Minister, in lieu of enforcing the order, may, if he thinks fit, adopt one of the following courses :—

- (a) if the local authority concerned is the council of a non-county borough, or of an urban district, he may make an order directing the council of the county within which that borough or district is situate to perform such of the obligations of the borough or district council under the original order within such times as may be specified in his order addressed to the county council ; or
- (b) in any case, he may make an order rendering exercisable by himself such of the powers of the local authority under this Act as may be specified in his order.

NOTES TO SECTION 171

This section reproduces s. 52 of the Act of 1930, *cf.* ss. 169 and 170, *ante*.

(a) “ **Public Local Inquiry.** ”—See s. 178, p. 304, *post*.

(b) “ **Make an order.** ”—See note (a) to s. 169, p. 296, *ante*.

172. Provisions as to orders directing county council to perform obligations of urban district councils.—(1) An order under the last foregoing section directing a county council to perform any obligations of the council of a non-county borough or of an urban district may—

- (a) for the purpose of enabling the county council to comply with the order, transfer to them any of the powers conferred by this Act on local authorities ;
- (b) provide that section sixty-three of the Local Government Act, 1894 (*a*), shall, subject to such modifications and adaptations as may be specified in the order, apply in relation to the powers so transferred as it applies in relation to powers transferred under that Act.

(2) Where such an order transfers to a county council any of the powers of a local authority under Part V of this Act, the provisions of section one hundred and five of this Act (*b*) shall, with the necessary modifications and subject as hereinafter provided, apply in relation to that county

council as they apply in relation to a local authority, and the Minister may make or undertake to make contributions accordingly :

Provided that, notwithstanding anything in any Act or in any order made under any Act, the amount and duration of any such contribution may be reduced by the Minister at his discretion (c).

NOTES TO SECTION 172

This section reproduces s. 53 of the Act of 1930. See generally notes to s. 169, p. 294, *ante*.

(a) **Local Government Act, 1894, s. 63.**—For this section see note (b) to s. 169, p. 296, *ante*.

(b) **Section 105.**—See p. 235, *ante*. References to s. 105 in this section are to include references to ss. 1 and 2 of the Housing (Financial Provisions) Act, 1938 (see those sections at pp. 386 *et seq.*, *post*), and references to the provisions relating to annual Exchequer contributions in the Housing (Financial and Miscellaneous Provisions) Act, 1946; see para. 3 of the Third Schedule to that Act, p. 464, *post*.

(c) **Reduction of Exchequer contributions.**—As to the power to reduce, withhold or suspend Government contributions, see s. 113, p. 245, *ante*. See also s. 114, p. 246, *ante*, as amended.

173. Provisions as to exercise by Minister of powers of a local authority.—(1) The following provisions of this section shall have effect in any case where under the foregoing provisions of this Part of this Act the Minister has by order rendered exercisable by himself any powers of a local authority (a).

(2) Any expenses incurred by the Minister in exercising the said powers shall be paid in the first instance out of moneys provided by Parliament, but the amount of those expenses as certified by the Minister shall on demand be paid by the local authority to the Minister and shall be recoverable as a debt due to the Crown.

(3) The payment of any such expenses as aforesaid shall, to such extent as may be sanctioned by the Minister, be a purpose for which a local authority may borrow money.

(4) The Minister may by order vest in and transfer to the local authority any property, debts or liabilities acquired or incurred by him in exercising the powers of the local authority, and that property and those debts or liabilities shall vest and attach accordingly.

(5) In this section the expression “local authority,” in relation to any powers which, upon the default of a local authority, have been transferred to a county council, means the local authority in whom those powers were originally vested.

NOTES TO SECTION 173

This section reproduces s. 54 of the Act of 1930.

(a) As to these provisions, see ss. 170 and 171, p. 297, *ante*.

174. Power to vary and revoke certain orders relating to defaults.—In any case where under this Act an order has been made by a county council transferring to that council any powers or duties of a local authority (a), or an order has been made by the Minister transferring to a county council (b), or directing a county council to exercise (c), any powers or duties of a local authority, or rendering any powers or duties of a local authority exercisable by the Minister (d), the county council, or, in the case of an order made by the Minister, the Minister, may at any time by a subsequent order vary or revoke that order, but without prejudice to the validity of anything previously done thereunder; and, when any order is so revoked, the county council or, as the case may be, the Minister, may either by the revoking order, or by a supplemental order, make such provision as appears to be desirable with respect to the transfer, vesting and discharge of any property, debts or liabilities acquired or incurred by the county council, or by the Minister, in exercising the powers or duties to which the order so revoked related.

NOTES TO SECTION 174

This section reproduces s. 56 of the Act of 1930.

(a) See s. 169, p. 294, *ante*.

(b) See s. 169, p. 294, *ante*.

(c) See ss. 170 and 171, pp. 297, 298, *ante*.

(d) See ss. 170 and 171, pp. 297, 298, *ante*.

175. Power of London County Council in the event of default of metropolitan borough council.—(1) Where a complaint has been made to the Minister by the London County Council that the council of a metropolitan borough have failed—

- (a) to enforce any byelaws made under section six of this Act (a) and for the time being in force; or
- (b) to exercise their powers under section twelve of this Act (b) in a case where those powers ought to have been exercised; or
- (c) to make an inspection of their borough under section fifty-seven of this Act (c) or, within a reasonable period, to complete the inspection and to submit the report thereon; or

(d) to enforce the provisions of Part IV (*d*) of this Act ; the Minister, if satisfied after due inquiry (*e*) that there has been such a failure on the part of that council, may make an order declaring that council to be in default and directing that council to exercise such powers as may be necessary for the purpose of remedying the default in such manner and within such time as may be specified in the order.

(2) If the council to whom the order is addressed fail to comply with any requirement thereof within the time limited thereby for compliance therewith, the Minister may make an order directing the London County Council to perform such of the obligations of the metropolitan borough council under the original order within such time as may be specified in his order addressed to the London County Council.

(3) An order under the last foregoing subsection may provide that section two hundred and ninety-two of the Public Health (London) Act, 1936 (*f*), shall, subject to such modifications and adaptations as may be specified in the order, apply in relation to the obligations specified therein as it applies in relation to duties which the London County Council are appointed to perform under that section.

NOTES TO SECTION 175

This section reproduces s. 85 of the Act of 1935.

(a) "**Section six.**"—See p. 54, *ante*, and notes thereto.

(b) "**Section twelve.**"—This is the section which provides for closing orders, see p. 76, *ante*.

(c) "**Section fifty-seven.**"—This section imposes on local authorities a duty to make an inspection for the purpose of ascertaining the overcrowding in their district and to submit a report thereon ; see p. 168, *ante*.

(d) "**Part IV.**"—See the overcrowding provisions in ss. 57 *et seq.*, pp. 168 *et seq.*, *ante*.

(e) "**After due inquiry.**"—The Minister may make his inquiry in whatever manner he claims ; he need not hold a public local inquiry and probably will not do so.

(f) **Public Health (London) Act, 1936, s. 292.**—This section deals with default on the part of a metropolitan borough council in executing or performing their duties under the Public Health (London) Act, 1936 (30 Halsbury's Statutes 437). The section provides (*inter alia*) for the defraying of expenses incurred by the county council and for the securing of any necessary loans.

General Powers of Minister.

176. Power of Minister to prescribe forms and to dispense with advertisements and notices.—(1) The Minister may by regulations prescribe anything which by

this Act is to be prescribed and the form of any notice, advertisement, statement or other document which is required or authorised to be used under, or for the purposes of, this Act (a).

(2) The Minister may dispense with the publication of advertisements or the service of notices required to be published or served by a local authority under this Act, if he is satisfied that there is reasonable cause for dispensing with the publication or service.

(3) Any such dispensation may be given by the Minister either before or after the time at which the advertisement is required to be published or the notice is required to be served, and either unconditionally, or upon such conditions as to the publication of other advertisements or the service of other notices or otherwise as the Minister thinks fit, due care being taken by him to prevent the interests of any persons being prejudiced by the dispensation.

NOTES TO SECTION 176

Sub-section (1) reproduces s. 57 of the Act of 1930 and sub-ss. (2) and (3) reproduce sub-ss. (2) and (3) of s. 122 of the Act of 1925.

(a) For Forms prescribed by the Minister, see p. 499, *post*, and see s. 189 (1), p. 319, *post*, for the validity of regulations made under repealed enactments.

177. Regulations to be laid before Parliament.—

All regulations made by the Minister under the last foregoing section shall, so soon as may be after they are made, be laid before each House of Parliament, and, if either House of Parliament, within the next subsequent twenty-one days on which that House has sat after any such regulation has been laid before it, resolves that the regulation shall be annulled, the regulation shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder or to the making of a new regulation.

NOTES TO SECTION 177

This section reproduces s. 58 of the Act of 1930.

The laying of the regulations before Parliament is not a condition precedent to their validity: such regulations take effect immediately they are made or on the date specified in the regulations themselves. It would seem, however, that if the Minister failed to lay the regulations before Parliament "so soon as may be after they are made," they would cease to have effect. There is no English case dealing with this point, but the decision of the Tasmanian Court in the case of *Bain v. Thorne* (1916), 12 Tas. L. R. 57; 42 Digest 783, 2126i, appears to be sound law. The fact that Parliament has not annulled the regulations will not, it is submitted, prevent their validity from being challenged in the courts on the point that they are *ultra vires*, for Parliament is not required, as in the case of a provisional order, to confirm such regulations.

178. Local inquiries and orders.—(1) For the purposes of the execution of his powers and duties under this Act, the Minister may cause such local inquiries to be held as he may think fit.

(2) Sections two hundred and ninety-three to two hundred and ninety-five and section two hundred and ninety-eight of the Public Health Act, 1875 (*a*), shall apply for the purpose of any order to be made by the Minister in pursuance of this Act.

NOTES TO SECTION 178

This section reproduces s. 116 of the Act of 1925 as amended by the Local Government Act, 1933, s. 307, Schedule XI, Part IV.

Local Inquiries.—The Minister is not himself bound to hold inquiries but only to cause inquiries to be held. The Act does not bind the Minister to cause inquiries to be held by any particular person, but in fact inquiries under this Act are always held by inspectors attached to the staff of the Ministry of Health. An inquiry under this section is in the nature of quasi-judicial proceedings. In *Errington v. Minister of Health*, [1935] 1 K. B. 249; Digest Supp., ROCHE, L. J., said at p. 280, "It is sufficient to say that, whereas it is sometimes contended that the principles of national justice are vague and difficult to ascertain, fortunately the principles of British justice have been authoritatively laid down. They extend at all events to the assertion of this principle—that where judicial functions, or quasi-judicial functions, have to be exercised by a court or by a board, or any body of persons, it is necessary and essential in the words of Lord HALDANE, in *Local Government Board v. Arlidge* that they must always give a fair opportunity to them who are parties in the controversy to correct or to contradict any relevant statement prejudicial to their view. In other words, these principles of British justice proceed upon the basis that both sides have a right to be heard. The learned Solicitor-General . . . said he did not dispute that all that was involved in the public inquiry were functions of the Minister and those who represented him and were quasi-judicial." See also *Board of Education v. Rice*, [1911] A. C. 179; 75 J. P. 393; *Local Government Board v. Arlidge*, [1915] A. C. 120; 79 J. P. 97; 38 Digest 97, 708; as to the position and duties of persons who hold inquiries, SWIFT J., in *William Denby & Sons v. Minister of Health*, [1936] 1 K. B. 337 at p. 342; Digest Supp., said, "It seems obvious that he [*i.e.* the person holding an inquiry] must in the discharge of his duties be bound by the dictates of natural justice, and that his inquiry must be one which is fair to all parties interested. He must hear everything which any of them wish to say, and he should not hear anything from one party without giving the other an opportunity of answering it. He should not receive anything from one behind the back of the other, and, although he is not bound in any sense by the rules of evidence and procedure which apply to an ordinary Court of Law, he must, before making his report, comply with the ordinary dictates of natural justice in the obtaining and consideration of the matters which go to form the opinions or conclusions which he expresses in his report."

See also *Marriott v. Minister of Health*, [1937] 1 K. B. 128; [1936] 2 All E. R. 865; 100 J. P., pp. 41 and 432; Digest Supp. A person affected by an order of the Minister made after a local inquiry is not entitled to see the report of the person who held the inquiry. *William Denby & Sons, Ltd. v. Minister of Health*, *supra*, following *Local Government Board v. Arlidge*, *supra*.

The Minister can only inquire into the facts as they exist at the time the inquiry is held and cannot take into consideration facts which existed at the time the local authority made their order, but which have between that date and the date of the inquiry altered, see *Marriott v. Minister of Health*

(1936), *supra*. The Minister is still bound to act in accordance with the dictates of a "natural justice" even in cases where he is not required to hold an inquiry (*Re Mowsley* (No. 1) *Compulsory Purchase Order*, 1944 (1946), 175 L. T. 101; *sub nom. Stafford v. Minister of Health*, 110 J. P. 210).

As to inquiries generally, see also INTRODUCTION, p. 29, *ante*. Under the First Schedule of the Acquisition of Land (Authorisation Procedure) Act, 1946 (p. 671, *post*), which applies to all compulsory purchase orders under Part V, a hearing by a person appointed by the Minister may be substituted for a local inquiry.

The law relating to local inquiries is now contained in the Local Government Act, 1933, s. 290, which provides :—

290. Power of government departments to direct inquiries.—

(1) Where any department are authorised by this Act to determine any difference, to make or confirm any order, to frame any scheme, or to give any consent, confirmation, sanction or approval to any matter, or otherwise to act under this Act, and where the Secretary of State or the Minister is authorised to hold an inquiry, either under this Act or under any other enactment relating to the functions of a local authority, they or he may cause a local inquiry to be held.

(2) For the purpose of any such inquiry, the person appointed to hold the inquiry may by summons require any person to attend, at such time and place as is set forth in the summons, to give evidence or to produce any documents in his custody or under his control which relate to any matter in question at the inquiry, and may take evidence on oath, and for that purpose administer oaths, or may, instead of administering an oath, require the person examined to make and subscribe a declaration of the truth of the matter respecting which he is examined :

Provided that—

- (a) no person shall be required, in obedience to such a summons, to go more than ten miles from his place of residence, unless the necessary expenses of his attendance are paid or tendered to him ; and
 - (b) nothing in this section shall empower the person holding the inquiry to require the production of the title, or of any instrument relating to the title, of any land not being the property of a local authority.
- (3) Every person who refuses or wilfully neglects to attend in obedience to a summons issued under this section, or to give evidence, or who wilfully alters, suppresses, conceals, destroys, or refuses to produce any book or other document which he may be required to produce for the purposes of this section, shall be liable, on summary conviction, to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.
- (4) Where a department cause any such inquiry to be held, the costs incurred by them in relation to that inquiry (including such reasonable sum not exceeding five guineas a day as they may determine for the services of any officer engaged in the inquiry) shall be paid by such local authority or party to the inquiry as the department may direct, and the department may certify the amount of the costs so incurred, and any amount so certified and directed by the department to be paid by any authority or person shall be recoverable from that authority or person either as a debt to the Crown or by the department summarily as a civil debt.

(5) The department may make orders as to the costs of the parties at any such inquiry and as to the parties by whom such costs shall be paid, and every such order may be made a rule of the High Court on the application of any party named in the order.

(6) This section shall apply to a commissioner appointed under section twenty-five of this Act and to any inquiries held by him as if he were a person appointed by the Secretary of State to hold an inquiry under this Act.

(7) This section shall extend to local inquiries held by the Minister of

Transport under the provisions of the Local Government Act, 1929, or the Ferries (Acquisition by Local Authorities) Act, 1919.

(8) In this section the expression "department" includes the Secretary of State, the Minister, the Minister of Transport, and any Board of Commissioners.

(a) **Public Health Act, 1875, ss. 293-295 and 298.**—These sections were not repealed by the Local Government Act, 1933 (26 Halsbury's Statutes 295), but ss. 293-295 were repealed by the Public Health Act, 1936, and replaced by s. 318 of that Act (29 Halsbury's Statutes 523).

179. Power of Minister to obtain a report on any crowded area.—If it appears to the Minister that owing to density of population, or any other reason, it is expedient to inquire into the circumstances of any area with a view to determining whether any powers under this Act should be put into force in that area or not, the Minister may require the local authority to make a report to him containing such particulars as to the population of the district and other matters as he may direct, and the local authority shall comply with the requirement of the Minister, and any expenses incurred by them in so doing shall be paid as expenses incurred in the execution of such Part of this Act as the Minister may determine.

NOTES TO SECTION 179

This section reproduces s. 117 of the Act of 1925. It is probable that *mandamus* would issue in the event of a local authority refusing to comply with a requirement of the Minister under this section.

In this connection note also the duties of local authorities under s. 71 periodically to review housing conditions in their areas and to frame proposals.

180. Arrangements between the Minister and other Departments.—The Minister may make arrangements with any other Government Department for the exercise and performance by that Department of any of his powers and duties under this Act which in his opinion could be more conveniently so exercised and performed, and in that case that Department and the officers thereof shall have the same powers and duties as are by this Act conferred on the Minister and his officers.

NOTE TO SECTION 180

This section reproduces s. 118 of the Act of 1925.

Miscellaneous provisions as to London.

181. Relations between local authorities in London.—(1) The London County Council and the Common Council of the City of London or the council of

a metropolitan borough may at any time enter into an agreement with respect to—

- (a) any action to be taken under the provisions of Part III of this Act relating to clearance areas, redevelopment areas or improvement areas, or under Part IV of this Act, or under the provisions of section one hundred and sixty-two of this Act (*a*) relating to schemes of improvement or reconstruction, or in connection with the provision of new houses to abate overcrowding ;
 - (b) the exercise by one of the parties to the agreement of any powers conferred under the provisions of Part III of this Act relating to redevelopment areas or under Part IV of this Act on the other party thereto ;
 - (c) the making of contributions by one of those councils towards the expenses incurred by the other of them in taking any such action or in any such exercise of powers as aforesaid ; or
 - (d) the carrying out of any housing operations under Part V of this Act and the apportionment of the expenses incurred in carrying out such operations.
- (2) It shall be the duty of the council of every metropolitan borough to furnish any information in their power which may reasonably be required by the London County Council for the purpose of enabling them to carry out their duties under the provisions of Part III of this Act relating to clearance areas or to improvement areas, or under the provisions of section one hundred and sixty-two of this Act relating to schemes of improvement or reconstruction.

NOTES TO SECTION 181

This section consolidates the law contained in s. 80 (3) of the Act of 1925, s. 16 (8) and (10) of the Act of 1930 and s. 22 (2) of the Act of 1935.

General Note.—This section gives power to the London County Council or the Common Council of the City of London or the council of a metropolitan borough to enter into agreement with each other with respect to the following matters :—

- (a) any action to be taken under the provisions of—
 - (i) Part III of the Act relating to clearance areas, re-development areas or improvement areas ;
 - (ii) Part IV of the Act ;
 - (iii) Section 162 relating to schemes of improvement or re-construction by owners ; or
 - (iv) in connection with the provision of new houses to abate overcrowding.
- (b) the exercise by one of the parties to the agreement of any powers conferred on the other party under—
 - (i) the provisions of Part III relating to re-development areas ;
 - (ii) the provisions of Part IV of the Act relating to overcrowding.

- (c) the making of contributions by one council to another towards the expenses incurred by the other in taking any such action or in any such exercise of powers as is mentioned in (a) or (b) above.
- (d) the carrying out of any housing operations under Part V and the apportionment of the expenses incurred in carrying out such operations.
- (a) **Section 162.**—See p. 290, *ante*.

182. Agreements between London County Council and neighbouring authorities as to provision of houses.—The London County Council and the Common Council of the City of London, or any other council being the local authority of an area adjacent to or in the vicinity of the county of London, may enter into agreements for the provision by the London County Council of houses outside the county of London to meet the special needs of the other council, or for the provision by the other council of houses within their area to meet the needs of the London County Council, and for the payment, in either case, of such contributions as may be agreed by the council needing the houses to the council providing them.

In this section the expression “county of London” means the administrative county of London exclusive of the City of London.

NOTE TO SECTION 182

This section reproduces s. 48 (1) of the Act of 1930.

183. Provisions as to medical officers of health in London.—(1) *Anything which under this Act is authorised or required to be done by or to a medical officer of health of a local authority in the administrative county of London may be done by or to any person authorised to act temporarily as such medical officer of health.*

(2) The London County Council may, with the consent of the Minister, at any time appoint one or more duly qualified medical practitioner or practitioners with such remuneration as they think fit for the purpose of carrying into effect any Part of this Act.

(3) Any medical officer of health appointed by the London County Council and any officer appointed by them under this section shall be deemed to be a medical officer of health of a local authority within the meaning of this Act.

NOTES TO SECTION 183

This section reproduces sub-ss. (2), (3) and (4) of s. 130 of the Act of 1925. As to duties of medical officers, see s. 154, *ante*, and S. R. & O., 1935,

No. 1111 (The Sanitary Officers (London) Regulations, 1935), p. 399, *post*. Sub-section (1) was repealed by the Eighth Schedule to the London Government Act, 1939 (32 Halsbury's Statutes 379). See now Part IV of that Act.

184. Committee of the Common Council.—The Common Council of the City of London may appoint a committee, consisting of so many persons as they think fit, for any purposes of this Act which in their opinion may be better regulated and managed by means of a committee :

Provided that a committee so appointed shall consist as to a majority of its members of members of the Common Council, and shall not be authorised to borrow any money, or to make any rate, and shall be subject to any regulations and restrictions which may be imposed by the Common Council.

NOTES TO SECTION 184

This section reproduces and applies to the City of London the repealed sub-s. (1) of s. 111 of the Act of 1925.

As to committees outside London, see s. 153, p. 282, *ante*, and notes thereto, and see also s. 85 of Local Government Act, 1933 (26 Halsbury's Statutes 352).

185. Prohibition on persons interested voting as members of local authority in London.—(1) A person shall not, by reason only of the fact that he occupies a house at a rental from a local authority for the purposes of Part V of this Act in the administrative county of London, be disqualified from being elected or being a member of the authority or of any committee thereof, but no person shall vote as a member of such a local authority, or any committee thereof, upon any resolution or question which is proposed or arises in pursuance of this Act, if it relates to any house, building or land in which he is beneficially interested.

(2) If any person votes in contravention of this section, he shall, on summary conviction (*a*), be liable to a fine not exceeding fifty pounds, but the fact of his giving the vote shall not invalidate any resolution or proceeding of the local authority.

NOTES TO SECTION 185

This section has been repealed except in so far as it relates to the City of London by the Eighth Schedule to the London Government Act, 1939 (32 Halsbury's Statutes 379). Disability of members for voting is now dealt with in ss. 51 and 52 of that Act (32 Halsbury's Statutes 285). For provisions as to disability of councillors for voting outside London see Local Government Act, 1933, ss. 76 and 95 (26 Halsbury's Statutes 346, 357).

(a) "**On summary conviction.**"—The information could be laid by any person. See the general rule stated by KAY L.J., in *R. v. Stewart*, [1896] 1 Q. B. 300, at p. 303; 33 Digest 324, 389 and *Kenealy v. O'Keefe*, [1901] 2 I. R. 39; 25 Digest 122, *m*.

186. Local inquiries in London.—(1) *The costs incurred in relation to any local inquiry which the Minister may cause to be held in pursuance of this Act in relation to any part of the administrative county of London (including the remuneration of any person employed by the Minister for the purposes of the inquiry) shall be paid by the local authorities and persons concerned in the inquiry, or by such of them and in such proportion as the Minister may direct, and the Minister may certify the amount of the costs incurred, and any sum so certified and directed by the Minister to be paid by any local authority or person shall be a debt due to the Crown from that local authority or person.*

(2) *Sections two hundred and ninety-three to two hundred and ninety-six and section two hundred and ninety-eight of the Public Health Act, 1875, shall apply for the purpose of any such local inquiry as aforesaid.*

NOTES TO SECTION 186

This section was repealed by the Eighth Schedule to the London Government Act, 1939 (32 Halsbury's Statutes 379). S. 189 of that Act now governs the holding of local inquiries in London. The provisions of that section are similar to those contained in s. 290 of the Local Government Act, 1933; see note to s. 178, p. 304, *ante*. Sub-ss. (6) and (7) of s. 290 are omitted from s. 189 of the London Government Act, 1939 (32 Halsbury's Statutes 244).

PART VIII. SUPPLEMENTAL.

187. Powers of Act to be cumulative.—All powers given by this Act shall be deemed to be in addition to and not in derogation of any other powers conferred by Act of Parliament, law, or custom, and such other powers may be exercised in the same manner as if this Act had not passed, and nothing in this Act shall exempt any person from any penalty to which he would have been subject if this Act had not passed :

Provided that a local authority shall not, by reason of any local Act relating to a place within their jurisdiction, be exempted from the performance of any duty or obligation to which such authority are subject under this Act.

NOTES TO SECTION 187

This section reproduces s. 134 of the Act of 1925.

See the Interpretation Act, 1889, s. 33 (18 Halsbury's Statutes 1004), as to offences under two or more statutes.

188. Interpretation.—(1) In this Act, unless the context otherwise requires—

“The Act of 1919” means (a) the Housing, Town Planning, &c. Act, 1919 (b) :

“The Act of 1923” means the Housing, &c. Act, 1923 (c) :

“The Act of 1924” means the Housing (Financial Provisions) Act, 1924 (d) :

“The Act of 1931” means the Housing (Rural Authorities) Act, 1931 (e) :

“The Housing Acts” means the Acts referred to in the foregoing definitions, the Housing Act, 1925 (f), the Housing Act, 1930 (g), the Housing Act, 1935 (h), and this Act :

“Agricultural population” (i) has the meaning assigned to it by subsection (2) of section one hundred and fifteen of this Act :

“Apparatus” means sewers, drains, culverts, water-courses, mains, pipes, valves, tubes, cables, wires, transformers, and other apparatus laid down or used for or in connection with the carrying, conveying or supplying to any premises of a supply of water, water for hydraulic power, gas or electricity, and standards and brackets carrying street lamps :

“Building byelaws” includes byelaws made by any local authority under section one hundred and fifty-seven of the Public Health Act, 1875 (j), as amended by any subsequent enactment, with respect to new buildings, including the drainage thereof, and new streets, and any enactments in any local Acts dealing with the construction and drainage of new buildings and the laying out and construction of new streets, and any byelaws made with respect to such matters under any such local Act :

“Contributory place” has the same meaning as in the Public Health Act, 1875 (k) :

“Exchequer contribution” means a contribution which the Minister is required or authorised to make to a

local authority out of moneys provided by Parliament under any of the following enactments, that is to say :—

Section seven of the Act of 1919 (*l*).

Paragraph (b) of subsection (1) of section one of the Act of 1923 (as originally enacted) (*m*).

Subsection (3) of section one of the Act of 1923 (*n*).

Paragraph (b) of subsection (1) of section one of the Act of 1923 (as amended by sections one and two of the Act of 1924) (*o*).

Subsection (2A) of section four of the Housing (Rural Workers) Act, 1926 (*p*).

Section one of the Act of 1931 (*q*).

Sections one hundred and five to one hundred and eight of this Act.

“ Flat ” means a separate and self-contained set of premises constructed for use for the purposes of a dwelling and forming part of a building from some other part of which it is divided horizontally, and “ block of flats ” means a building which contains two or more flats and which consists of three or more storeys exclusive of any storey which is constructed for use for purposes other than those of a dwelling :

“ House ” (*r*) includes any yard, garden, outhouses, and appurtenances belonging thereto or usually enjoyed therewith :

“ Housing association ” means a society, body of trustees or company established for the purpose of, or amongst whose objects or powers are included those of, constructing, improving or managing or facilitating or encouraging the construction or improvement of, houses for the working classes, being a society, body of trustees or company who do not trade for profit or whose constitution or rules prohibit the issue of any capital with interest or dividend exceeding the rate for the time being prescribed by the Treasury, whether with or without differentiation as between share and loan capital :

“ Housing trust ” means a corporation or body of persons which by the terms of its constituent instrument, is required to devote the whole of its funds, including any surplus which may arise from its operations, to the provision of houses for persons the majority of whom are in fact members of the

working classes, and to other purposes incidental thereto :

“ Land ” includes any right over land :

“ Loan charges ” means, in relation to any borrowed moneys, the sums required for the payment of interest on those moneys and for the repayment thereof either by instalments or by means of a sinking fund :

“ Mental hospitals board ” means the Lancashire Mental Hospitals Board, the West Riding of Yorkshire Mental Hospitals Board, the Staffordshire Mental Hospitals Board, and any other body constituted for the administration of the enactments relating to mental illness on behalf of any combination of county councils or county borough councils :

“ The Minister ” means the Minister of Health :

“ Official representation ” means in the case of any local authority a representation made to that authority by the medical officer thereof, and includes also, in the case of the council of a rural district or of an urban district not containing according to the last published census a population of more than ten thousand, a representation made by the medical officer of health of the county to the county council and forwarded by them to the council of the district, and, in the case of the council of a metropolitan borough, a representation made by the medical officer of health of the county of London to the London County Council and forwarded by them to the borough council :

“ Owner,” (s) in relation to any building or land, means a person other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the building or land, whether in possession or in reversion, and includes also a person holding or entitled to the rents and profits of the building or land under a lease or agreement, the unexpired term whereof exceeds three years :

“ Planning scheme ” means a scheme made under the Town Planning Act, 1925, or the Town and Country Planning Act, 1932, or any enactment repealed by either of those Acts :

“ Public Health Acts ” means as respects London, the Public Health (London) Act, 1936, and elsewhere the Public Health Act, 1875 (t), and the Acts amending those Acts :

"Sanitary defects" (*u*) includes lack of air space or of ventilation, darkness, dampness, absence of adequate and readily accessible water supply or sanitary accommodation or of other conveniences, and inadequate paving or drainage of courts, yards or passages :

"Statutory security" (*v*) has the meaning assigned to it by Part IX of the Local Government Act, 1933 :

"Statutory undertakers" means any persons authorised by any enactment or by an order, rule or regulation made under an enactment, to construct, work or carry on a railway, canal, inland navigation, dock, harbour, tramway, gas, electricity, water or other public undertaking :

"Street" includes any court, alley, passage, square, or row of houses, whether a thoroughfare or not.

(2) In this Act, references to a local authority where not limited by the context to references to the local authority for the purposes of this Act (*w*) or of any enactment in this Act or of any other enactment relating to housing, unless the context otherwise requires, include references to the Common Council of the City of London, the London County Council, a metropolitan borough council and the council of a borough, urban district or rural district.

(3) (*x*) For the purposes of any provisions of this Act relating to the provision of housing accommodation, the expression "house" includes, unless the context otherwise requires, any part of a building which is occupied or intended to be occupied as a separate dwelling.

(4) (*y*) In determining for the purposes of this Act whether a house is fit for human habitation, regard shall be had to the extent, if any, to which by reason of disrepair or sanitary defects the house falls short of the provisions of any byelaws in operation in the district or of any enactment in any local Act in operation in the district dealing with the construction and drainage of new buildings and the laying out and construction of new streets or of the general standard of housing accommodation for working classes in the district.

NOTES TO SECTION 188

General Note.—This section contains definitions formerly contained in the Housing Act, 1925, s. 135, the Housing Act, 1930, s. 62, the Housing Act, 1935, ss. 26, 97, and Schedule VI, Part II. The definition of "Exchequer contribution" contained in this section shall include contributions under ss. 1 and 2 of the Housing (Financial Provisions) Act, 1938, pp. 386 *et seq.*, *post* (see s. 4 of that Act, p. 392, *post*); and all sums, other than capital grants,

payable by the Minister to a local authority under the Housing (Financial and Miscellaneous Provisions) Act, 1946 (see para. 2 of the Third Schedule to that Act, p. 464, *post*).

The definition of the "Housing Acts" also includes the Housing (Financial Provisions) Act, 1938 (s. 11 (2) of that Act, p. 399, *post*); the Housing (Temporary Provisions) Act, 1944 (s. 3 (2) of that Act, p. 403, *post*); and the Housing (Financial and Miscellaneous Provisions) Act, 1946 (para. 1 of the Third Schedule to that Act, p. 464, *post*). The definition of a "housing association" now includes a "Development Corporation" set up under the New Towns Act, 1946; s. 8 (1) of that Act provides that a corporation shall be deemed to be a housing association within the meaning of this Act.

(a) "**Means,**" "**include.**"—In *R. v. Kershaw* (1856), 21 J. P. 181, ERLE, J., points out the distinction between the words *include* and *mean* in the same interpretation section; the former have an extending and the latter an excluding effect. But the word "include" may be equivalent to "mean and include" and so have an excluding effect, *Dilworth v. Commissioner of Stamps*, [1899] A. C. 99. See further as to its meaning, *Worsley v. S. Devon Rail. Co.* (1851), 16 Q. B. 539; *Ex parte Ferguson* (1871), L. R. 6 Q. B. 280, 291, *per* BLACKBURN, J.; 42 Digest 679, 914; *Jones v. Cook* (1871), L. R. 6 Q. B. 505; 38 Digest 219, 527; *Pound v. Plumstead Board of Works* (1871), L. R. 7 Q. B. *per* BLACKBURN, J., at p. 194; 42 Digest 680, 917; *Baker v. Portsmouth Corporation* (1877), 3 Ex. D. 4, 157; 26 Digest 552, 2488; *Robinson v. Barton-Eccles L. B.* (1883), 8 App. Cas. 798; 26 Digest 269, 86; *Nutter v. Accrington L. B. of Health* (1878), 4 Q. B. D. 375; 42 Digest 680, 916.

(b) **The Act of 1919.**—For contributions payable under s. 7 of this Act see the Seventh Schedule, p. 337, *post*; and for the text of the section see notes to s. III, p. 243, *ante*.

(c) **The Act of 1923.**—For contributions payable under s. 1 (3) of this Act see the Seventh Schedule, p. 337, *post*; and for the text of that sub-section see note (d) to s. III, p. 244, *ante*.

(d) **The Act of 1924.**—This Act and the Act of 1923 are not reprinted in this edition. They are not of great importance save in connection with contributions already undertaken to be made. S. 22 of the Act of 1923 (which amends the Small Dwellings Acquisition Act, 1899) is reprinted at p. 378, *post*. For the text of these Acts see 13 Halsbury's Statutes 984 and 992.

(e) **The Act of 1931.**—See p. 380, *post*.

(f) **The Housing Act, 1925.**—The whole of this Act is now repealed, see Twelfth Schedule.

(g) **The Housing Act, 1930.**—The unrepealed sections of this Act are not reprinted in this edition. They relate entirely to contributions already undertaken to be made under that Act or earlier enactments. For text see 23 Halsbury's Statutes 396.

(h) **The Housing Act, 1935.**—Only s. 92 of this Act remains effective; see p. 384, *post*, for text of that section which amends the Small Dwellings Acquisition Acts. For text of the 1935 Act see 28 Halsbury's Statutes 199.

(i) "**Agricultural population.**"—For s. 115, see p. 247, *ante*.

(j) **Public Health Act, 1875, s. 157.**—This section is amended by the Public Health Act, 1936, as from October 1, 1937; s. 61 of the latter Act takes the place of the repealed provisions; s. 157 provides as follows, the part printed in italics being those repealed by the Public Health Act, 1936.

Section 157.—Every urban authority may make byelaws (a) with respect to the following matters; (that is to say):

(1) With respect to the level, width and construction of new streets, and the provisions for the sewerage thereof:

- (2) *With respect to the structure of walls, foundations, roofs and chimneys of new buildings for securing stability and the prevention of fires, and for purposes of health :*
- (3) *With respect to the sufficiency of the space about buildings to secure a free circulation of air, and with respect to the ventilation of buildings :*
- (4) *With respect to the drainage of buildings, to water-closets, privies, ash-pits and cesspools in connexion with buildings, and to the closing of buildings or parts of buildings unfit for human habitation, and to prohibition of their use for such habitation :*

And they may further provide for the observance of such byelaws by enacting therein such provisions as they may think necessary as to the giving of notices, as to the deposit of plans and sections by persons intending to lay out streets or to construct buildings, as to inspection by the urban authority, and as to the power of such authority (subject to the provisions of this Act) to remove, alter, or pull down any work begun or done in contravention of such byelaws: *Provided that no byelaws made under this section shall affect any building erected in any place (which at the time of the passing of this Act is included in an urban sanitary district) before the Local Government Acts came into force in such place, or any building erected in any place (which at the time of the passing of this Act is not included in an urban sanitary district) before such place becomes constituted or included in an urban district, or by virtue of any order of the Local Government Board subject to this enactment.*

The provisions of this section and of the two last preceding sections shall not apply to buildings belonging to any railway company and used for the purposes of such railway under any Act of Parliament.

The Public Health Act, 1936, s. 61, provides—

61.—(1) Every local authority may and, if required by the Minister, shall make byelaws for regulating all or any of the following matters :—

- (i) as regards buildings :—
 - (a) the construction of buildings, and the materials to be used in the construction of buildings;
 - (b) the space about buildings, the lighting and ventilation of buildings, and the dimensions of rooms intended for human habitation;
 - (c) the height of buildings; the height of chimneys, not being separate buildings, above the roof of the building of which they form part;
- (ii) as regards works and fittings :—
 - (d) sanitary conveniences in connection with buildings; the drainage of buildings, including the means for conveying refuse water and water from roofs and from yards appurtenant to buildings; cesspools and other means for the reception or disposal of foul matter in connection with buildings;
 - (e) ashpits in connection with buildings;
 - (f) wells, tanks and cisterns for the supply of water for human consumption in connection with buildings;
 - (g) stoves and other fittings in buildings (not being electric stoves or fittings), in so far as byelaws with respect to such matters are required for the purposes of health and the prevention of fire;
 - (h) private sewers; communications between drains and sewers and between sewers.
- (2) Byelaws made under this section may include provisions as to :—
 - (a) the giving of notices and the deposit of plans, sections, specifications and written particulars; and
 - (b) the inspection of work; the testing of drains and sewers, and the taking by the local authority of samples of materials to be used in the construction of buildings, or in the execution of other works.

(3) A local authority who propose to apply to the Minister for confirmation of any byelaws made under this section shall, in addition to complying with the requirements of section two hundred and fifty of the Local Government Act, 1933, publish in the *London Gazette* at least one month before the application is made notice of their intention to apply for confirmation.

(h) "**Contributory Place.**"—Section 229 of the Public Health Act, 1875, was repealed by the Public Health Act, 1936, and by s. 343 of that Act "contributory place" is defined to mean—

"(a) a rural parish no part of which is included in a special purpose area formed under this Act or under any Act repealed by this Act or by the Public Health Act, 1875;

"(b) a special purpose area so formed; and

"(c) in the case of a rural parish part of which forms or is included in a special purpose area formed as aforesaid, such part of the parish as is not comprised within that area."

(l) "**The Act of 1919, s. 7.**"—For text of this section, see p. 243, *ante*. As to the computation of the Exchequer's contributions under this section, see Seventh Schedule, p. 337, *post*.

(m) "**Act of 1923, s. 1 (1) (b) as originally enacted.**"—For the Exchequer's contribution payable under the section, see p. 244, s. 1 (3).

(n) **Act of 1923.**—For contributions payable under s. 1 (3) of that Act see Seventh Schedule, p. 337, *post*, and for rate fund contributions see para. 2 of the Eighth Schedule, p. 341, *post*.

(o) "**Act of 1923, s. 1 (1) (b) as amended.**"—For rate fund contributions see para. 4 of the Eighth Schedule, p. 342, *post*.

(p) "**Housing (Rural Workers) Act, 1926, s. 4 (2a).**"—The Housing (Rural Workers) Acts, 1926 to 1942, expired on September 30, 1945. No further application can be received under those Acts. They are important only in connection with obligations already undertaken thereunder. For the text of the 1926 Act see 13 Halsbury's Statutes 1162. The text is not reprinted in this edition.

(q) "**Act of 1931, s. 1.**"—See p. 380, *post*.

(r) "**House.**"—See also sub-s. (3). In the case of *Premier Garage Company v. Ilkeston Corporation* (1933), 97 J.P.Jo. 786, it was decided that where one indivisible property contains both shop premises and ordinary dwelling-house accommodation, it is a dwelling-house within the meaning of Part II of this Act. In the case of a mews consisting of two-storied structures where the upper floors were dwellings and the lower garages and workshops, held that the composite buildings were houses even though the vertical divisions were not the same in every case and although the floors were separately occupied with separate entrances (*Re Butler, Camberwell (Wingfield Mews) No. 2 Clearance Order, 1936*, [1939] 1 K. B. 570; [1939] 1 All E. R. 590; 103 J. P. 143; Digest Supp.).

In order to decide whether a building is or is not a "house" within the meaning of this Act, the following test is suggested—

- (1) Is the building regarded as a whole a house in the ordinary sense of the word?
- (2) Is it dwelt in or capable of being dwelt in without substantial alterations (apart from disrepair)?

In *Re the Liverpool (Portland Street No. 2) Housing Confirmation Order, 1935* (unreported), a building which was constructed as a dwelling-house was held to be a house although there was no evidence that it had been used as a dwelling-house at any time and it was not so used at the date of the order.

Note also the provisions contained in s. 12 (Power to make closing order as to part of a building), note (g) to ss. 25 and s. 40, pp. 94, 135, *ante*.

Reference also may be made to *Kirkpatrick v. Maxwelltown Town Council*, [1912] S. C. 288; 38 Digest 212, c; *M'Diarmid v. Glasgow Housing Committee*, [1917] S. C. 361; 38 Digest 212, d; *Re Bainbridge, South Shields (D'Arcy Street) Compulsory Purchase Order, 1937*, [1939] 1 K. B. 500; [1939] 1 All E. R. 419; 103 J. P. 107; Digest Supp.

In *Re Ross and Leicester Corporation* (1932), 96 J. P. 459; Digest Supp., it was held that a common lodging-house was a dwelling-house within the meaning of the Housing Acts. In that case SWIFT, J., adopted the language of CHANNELL, J., in *London County Council v. Rowton Houses, Ltd.* (1897), 62 J. P. 68; 26 Digest 510, 2149, when he said: "The great majority of the buildings mentioned here, churches and chapels and ballrooms, and so on, could not be dwelling-houses, but there are a few, and particularly hotels, lodging-houses and so on, that would be. Those I think might be dwelling-houses notwithstanding that they are also public buildings." In *Bristol Guardians v. Bristol Waterworks Co.*, [1914] A. C. 379; 78 J. P. 217; 43 Digest 1066, 62, which was a case under a special Act, it was held that a workhouse was a dwelling-house but not a private dwelling-house. In *Lewin v. End*, [1906] A. C. 299; 70 J. P. 268; 19 Digest 523, 3848, it was held that buildings originally dwelling-houses but converted to business premises were still "houses." In *Morgan v. Kenyon* (1913), 78 J. P. 66; 38 Digest 182, 225, ATKIN, J., said: "I do not think that a building which once has been a dwelling-house . . . can cease to be a dwelling-house simply because it has got into such a state of disrepair that the law does not allow people to dwell in it." See also *Epsom Grand Stand Association, Ltd. v. Clarke* (1919), 35 T. L. R. 525; 31 Digest 581, 7296; *Callaghan v. Bristowe* (1920), 89 L. J. (K. B.) 817; 31 Digest 557, 7042, where it was held that a garage on the upper floor of which a chauffeur lived was a dwelling-house; *Ellen v. Goldstein* (1920), 89 L. J. (Ch.) 586; 31 Digest 558, 7055; *Waller & Son, Ltd. v. Thomas*, [1921] 1 K. B. 541; Digest Supp.; *Lawson v. Fraser* (1881), 8 L. R. Ir. 55. In deciding whether a house is suitable for occupation by members of the working classes appurtenances are limited to the curtilage yard and gardens and cannot include ten acres of grass lands (*Trim v. Sturminster Rural District Council*, [1938] 2 K. B. 508; [1938] 2 All E. R. 168; 102 J. P. 249; Digest Supp.).

(s) "**Owner.**"—Note that under this definition there may be a number of owners of the same land. In s. 25 (1) of the Housing (Financial and Miscellaneous Provisions) Act, 1946 (p. 459, *post*), "owner" is defined, in relation to a house, to mean a person entitled to a freehold interest therein; and "tenant" is defined to mean a person entitled to a leasehold interest; while "leasehold interest" is defined to include an interest subsisting under any tenancy.

(t) "**Public Health Act, 1875, etc.**"—A great part of the Public Health Act, 1875, and the Acts amending it have been repealed and are now embodied in the Public Health Act, 1936 (29 Halsbury's Statutes 309).

(u) "**Sanitary defects.**"—This definition is not exhaustive and the expression "sanitary defects" may be held to include matters not specifically referred to herein. In the author's view, vermin do not constitute a sanitary defect, but they may render a house unfit for human habitation within the meaning of s. 9 of this Act (see note (i), p. 65, *ante*). The question of whether the absence of a proper food store constitutes a sanitary defect or not is a difficult one. The author thinks, however, that a food store may be regarded as a sanitary convenience within the meaning of the expression "other conveniences," and that the absence of a food store may be taken into consideration when forming a decision as to the fitness or unfitness of a house for human habitation.

As to London, see London Building Act, 1930 (23 Halsbury's Statutes 213); for open spaces about building, ss. 42-49; as to byelaws, s. 148.

(v) "**Statutory security.**"—See Local Government Act, 1933, s. 218 (26 Halsbury's Statutes 424).

(w) "**Local authorities for purposes of this Act.**"—As to these, see s. 1 and notes thereto, p. 47, *ante*.

(x) **Sub-section (3).**—Note the definition of "house" here contained is limited to the provisions of the Act relating to the provision of housing accommodation. As to the meaning of the term house generally, see note (r), *supra*, and note (g) to s. 25, p. 98, *ante*. In s. 25 (2) of the Housing (Financial and Miscellaneous Provisions) Act, 1946 (p. 460, *post*), "house" is defined to include any part of a building, being a part which is occupied or intended to be occupied as a separate dwelling, and, in particular, includes a flat; but where it is designed as a single dwelling it is to be treated as such notwithstanding temporary division.

(y) **Sub-section (4).**—In considering the test which must be applied in determining whether a house is or is not fit for human habitation, the provisions of this section must be taken into account. It must be noted that the test is not whether it falls below the byelaws, but "*the extent to which by reason of disrepair or sanitary defects*" it falls below the byelaws mentioned in the sub-section. The alternative to this standard is *the extent to which by means of disrepair or sanitary defect* it falls below the general standard of housing accommodation for the working classes in the district.

As to unfitness for human habitation, see note (h) to s. 25, p. 99, *ante*, and *Hall v. Manchester Corporation* (1915), 84 L. J. (Ch.) 732; 79 J. P. 385; 38 Digest 212, 470.

189. Savings.—(1) Nothing in this Act shall affect any order, byelaw, regulation or plan made, charge effected, undertaking, notice, approval, certificate, direction or determination given, or other thing done, under any enactment repealed by this Act or by the Housing Act, 1925, but any such order, byelaw, regulation, plan, charge, undertaking, notice, approval, certificate, direction, determination or thing shall, if in force at the commencement of this Act, continue in force and shall, so far as it could have been made, effected, given or done under this Act, have effect as if made, effected, given or done under the corresponding provision of this Act.

(2) In this Act the expression "under this Act," whether in relation to any land, houses or other property acquired, to any contribution, to any housing or other operations, or in relation to any other matter or thing made, given, effected or done, or right acquired, or obligation incurred, and any other expression describing any matter or thing by reference to this Act or to any enactment in this Act, shall be construed as including a reference to any Act repealed by this Act or by the Housing Act, 1925, or to the corresponding provision of any Act so repealed.

(3) (a) Byelaws made by a local authority in pursuance of an obligation imposed upon them by paragraph (iii) of subsection (1) of section eight of the Housing Act, 1930, and confirmed before the second day of August, nineteen hundred and thirty-five, shall, to the extent to which they would have had effect if made and confirmed under section

six of this Act after the commencement of this Act, have effect, as respects land in the improvement area affected, as if they had been so made and confirmed and not otherwise.

(4) Byelaws made under the Public Health Act, 1875, or under the Public Health (London) Act, 1891, before the commencement of the Housing Act, 1935, by virtue of the power conferred by section six of the Housing Act, 1925, shall, if in force at the commencement of this Act, continue in force and shall have effect as if made under section six of this Act.

(5) Any document referring to any enactment repealed by this Act or by the Housing Act, 1925, shall be construed as referring to the corresponding provision of this Act.

(6) Any person holding office or acting or serving under or by virtue of any enactment repealed by this Act or by the Housing Act, 1925, shall continue to hold his office or to act or serve as if he had been appointed under this Act.

(7) Nothing in this section shall be taken to prejudice the provisions of section thirty-eight of the Interpretation Act, 1889 (*b*).

NOTES TO SECTION 189

Sub-section (3) reproduces s. 19 (3) and sub-s. (4) the proviso to s. 68 (2) of the Act of 1935.

(a) **Sub-section (3).**—Section 8 (1) (iii) of the Housing Act, 1930, was repealed by the Housing Act, 1935, as from August 2, 1935. By s. 19 (3) of that Act such byelaws if confirmed before August 2, 1935, had effect as if made under s. 6 of the Act of 1925. In future it will be impossible to declare an area to be an improvement area (see s. 38, p. 131, *ante*) and byelaws made under the repealed s. 8 (1) (iii) have effect as if made under s. 6 of the Act, *q.v.*

(b) **Interpretation Act, 1889, s. 38.**—This section provides :—

Section 38 (1).—When this Act or any Act passed after the commencement of this Act repeals or re-enacts, with or without modification, any provisions of a former Act, references in any other Act to the provisions so repealed, shall, unless the contrary intentions appear, be construed as references to the provisions as re-enacted.

(2) When this Act or any Act passed after the commencement of this Act repeals any other enactment, then, unless the contrary intention appears, the repeal shall not—

- (a) revive anything not in force or existing at the time at which the repeal takes effect; or
- (b) affect the previous operation of any enactment so repealed or anything duly done or suffered under any enactment so repealed; or
- (c) affect any right, privilege, obligation, or liability acquired, accrued, or incurred under any enactment so repealed; or
- (d) affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment so repealed; or
- (e) affect any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid;

and any such investigation, legal proceeding, or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing Act had not been passed.

190. Repeals.—The enactments mentioned in the Twelfth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

191. Short title, commencement and extent.—(1) This Act may be cited as the Housing Act, 1936.

(2) This Act shall come into force on the first day of January, nineteen hundred and thirty-seven.

(3) This Act shall not extend to Scotland or to Northern Ireland.

SCHEDULES.

FIRST SCHEDULE.

(Sections 16, 29, 32, 36, 38, 74.)

COMPULSORY PURCHASE ORDERS.

General.

1. A compulsory purchase order shall be in the prescribed form (a) and shall describe by reference to a map the land to which it applies, and shall incorporate, subject to the modifications hereinafter mentioned and any necessary adaptations—

- (a) the Lands Clauses Acts (except sections one hundred and twenty-seven to one hundred and thirty-two of the Lands Clauses Consolidation Act, 1845) (b);
- (b) the Acquisition of Land (Assessment of Compensation) Act, 1919 (c); and
- (c) section seventy-seven of the Railways Clauses Consolidation Act, 1845, and sections seventy-eight to eighty-five of that Act (d) as originally enacted and not as amended for certain purposes by section fifteen of the Mines (Working Facilities and Support) Act, 1923.

2. The modifications subject to which the Lands Clauses Acts and the Acquisition of Land (Assessment of Compensation) Act, 1919 (e), shall be incorporated in the order are as follows:—

- (a) the compensation shall be assessed in accordance with such of the provisions of this Act relating to the assessment of compensation in respect of land purchased compulsorily as are applicable to the particular case (f);
- (b) the arbitrator (g) shall not take into account any building erected or any improvement or alteration made or any interest in land created after the date on which notice of the order (h) having been made is published in accordance with the provisions of this Schedule if, in the opinion of the arbitrator (i), the erection of the building or the making of the improvement or alteration or the creation

of the interest in respect of which a claim is made was not reasonably necessary and (j) was carried out with a view to obtaining or increasing compensation ;

- (c) where any land to which an order relates is glebe land or other land belonging to an ecclesiastical benefice, the order shall provide that sums agreed upon or awarded for the purchase of the land, or to be paid by way of compensation for damage to be sustained by the owner by reason of severance or injury affecting the land, shall not be paid as directed by the Lands Clauses Acts, but shall be paid to the Ecclesiastical Commissioners to be applied by them as money paid to them upon a sale (k), under the provisions of the Ecclesiastical Leasing Acts, of land belonging to a benefice ;
- (d) all notices required to be served by the local authority may, notwithstanding anything in section nineteen of the Lands Clauses Consolidation Act, 1845, be served and addressed in the manner specified in section one hundred and sixty-seven of this Act (l) in relation to notices required to be served by or under this Act.

3. Before submitting the order to the Minister, the local authority shall—

- (a) publish in one or more newspapers circulating within their district a notice in the prescribed form (m) stating the fact of such an order having been made and describing the area comprised therein and naming a place where a copy of the order and of the map referred to therein may be seen at all reasonable hours ; and
- (b) serve (n) on every owner (o), lessee and occupier (except tenants for a month or a less period than a month) of any land to which the order relates a notice in the prescribed form stating the effect of the order and that it is about to be submitted to the Minister for confirmation and specifying the time within and the manner in which objections thereto can be made.

4. Except in the case of an order made under section thirty-six of this Act (p), if no objection is duly made by any of the persons upon whom notices are required to be served, or if all objections so made are withdrawn, then, subject to the provisions hereinafter in this Schedule contained, the Minister may, if he thinks fit, confirm the order with or without modification, but in any other case he shall, before confirming the order, cause a public local inquiry (q) to be held, and shall consider any objection not withdrawn (r) and the report of the person who held the inquiry, and may then confirm the order either with or without modification :

Provided that the Minister may require any person who has made an objection to state in writing the grounds thereof and may confirm the order without causing a public local inquiry to be held if he is satisfied that every objection duly made relates exclusively to matters which can be dealt with by the arbitrator by whom the compensation is to be assessed.

5. In the case of an order made under section thirty-six of this Act, if any objection is duly made in writing by any of the persons upon whom notices are required to be served, stating as the ground thereof either—

- (a) (s) that any house indicated in the order (t) as being unfit for human habitation (u) and not capable at reasonable expense of being rendered so fit (v) ought not to have been so indicated ; or
- (b) in the case of land in the re-development area, that the objector

is prepared to enter into arrangements (*w*) for the carrying out of re-development, or for securing the use of the land, in accordance with the re-development plan (*x*) ; or

- (c) in the case of land outside the re-development area (*y*) any matter not being a matter which in the opinion of the Minister can be dealt with by the arbitrator by whom the compensation is to be assessed ;

the Minister shall, unless the objection is withdrawn, cause a public local inquiry to be held with respect thereto and shall consider any objection (*z*) not withdrawn and the report of the person who held the inquiry, and may then, subject to the provisions hereinafter in this Schedule contained, confirm the order either with or without modification, and in any other case (*aa*) the Minister may, subject as aforesaid, confirm the order (*bb*) with or without modification and either after, or without, causing a public local inquiry to be held.

6. An order as confirmed by the Minister shall not authorise the local authority to purchase compulsorily any land which the order would not have authorised them so to purchase if it had been confirmed without modification.

7. In construing for the purposes of this Schedule or any order made thereunder any enactment incorporated in the order, this Act, together with the order, shall be deemed to be the special Act, and the local authority shall be deemed to be the promoters of the undertaking.

Provisions Applicable to Orders under Section 16, 29, 32 or 38 (cc).

8. In the case of an order made under section sixteen, twenty-nine, thirty-two or thirty-eight of this Act—

- (a) The Lands Clauses Acts and the Acquisition of Land (Assessment of Compensation) Act, 1919, shall be incorporated in the order subject to the following modification in addition to the modifications mentioned in paragraph 2 of this Schedule, that is to say, that notwithstanding anything in section ninety-two of the Lands Clauses Consolidation Act, 1845 (*dd*), the arbitrator may determine that such part of any house, building or manufactory as is proposed to be taken by the local authority can be taken without material damage to the house, building or manufactory, and, if he so determines, may award compensation in respect of the severance of the part so proposed to be taken, in addition to the value of that part and thereupon the party interested shall be required to sell and convey to the local authority that part of the house, building or manufactory ;
- (b) before submitting the order to the Minister the local authority shall, in addition to serving such notice as is mentioned in paragraph 3 (b) of this Schedule on the persons therein mentioned, serve the like notice on every mortgagee of any land to which the order relates, so far as it is reasonably practicable to ascertain such persons.

Provisions applicable to Orders under Section 29.

9. An order made under section twenty-nine (*ee*) of this Act shall show in the prescribed manner—

- (a) (*ff*) what parts, if any, of the land to be purchased compulsorily are outside the clearance area ; and

- (b) (gg) what buildings, if any, to be purchased compulsorily are included in the clearance area only on the ground that by reason of their bad arrangement in relation to other buildings, or the narrowness or bad arrangement of the streets, they are dangerous or injurious to the health of the inhabitants of the area.

10. An order made under section twenty-nine of this Act shall not, as confirmed by the Minister—

- (a) authorise the local authority to purchase as being land comprised in a clearance area any land shown in the order as submitted as being outside that area ; or
- (b) authorise the local authority to purchase compulsorily any building on less favourable terms with respect to compensation than the terms on which the order would have authorised them to purchase the building if the order had been confirmed without modification.

11. If the Minister is of opinion that any land included by the local authority in a clearance area ought not to have been so included, he shall in confirming an order made under section twenty-nine of this Act so modify it as to exclude that land for all purposes from the clearance area, but if in any such case he is of opinion that the land may properly be purchased by the authority under section twenty-seven of this Act, he shall further modify the order so as to authorise the local authority to purchase that land under that section and not as being land comprised in a clearance area.

12. The Minister may confirm an order made in connection with a clearance area notwithstanding that the effect of the modifications made by him in excluding any building from the clearance area is to sever that area into two or more separate and distinct areas, and in any such case the provisions of this Act relating to the effect of an order when confirmed and to the proceedings to be taken subsequent to the confirmation thereof shall apply as if those areas formed one clearance area.

Provisions applicable to Orders under Section 36.

13. Before submitting to the Minister an order made under section thirty-six of this Act, the local authority shall, in addition to serving such notice as is mentioned in paragraph 3 (b) of this Schedule on the persons therein mentioned, serve the like notice on every mortgagee of any land comprising or consisting of a house indicated in the order as being unfit for human habitation and not capable at reasonable expense of being rendered so fit, so far as it is reasonably practicable to ascertain such persons.

14. An order made under section thirty-six of this Act shall not, as confirmed by the Minister, authorise the local authority to purchase, as being a house unfit for human habitation and not capable at reasonable expense of being rendered so fit, any house not indicated in the order as submitted as being in that condition.

NOTES TO FIRST SCHEDULE.

For provisions relating to—

- (i) the purchase of land in a clearance area, see s. 29, p. 112, *ante* ;
- (ii) the purchase of land surrounded by or adjoining a clearance area, see s. 27, p. 110, *ante*.
- (iii) the purchase of land cleared of buildings in compliance with a

- clearance order, which the owners have failed to redevelop, see s. 32, p. 118, *ante* ;
- (iv) the purchase of land in an improvement area, see s. 38 (2)-(4), p. 131, *ante* ;
 - (v) the purchase of land comprised in a redevelopment area, see s. 36 ;
 - (vi) the purchase of land outside a redevelopment area for the purpose of providing accommodation for persons living in the area, see s. 36 ;
 - (vii) the purchase of land for the provision of houses for persons of the working classes, see ss. 73 and 74, p. 194, *ante* ;
 - (viii) the purchase of a house which is unfit for human habitation and which the local authority have contended is capable of being rendered fit for human habitation at a reasonable cost, but which the county court judge has found on appeal cannot be rendered so fit at a reasonable cost, see s. 16, p. 84, *ante* ;
 - (ix) the validity and date of operation of compulsory purchase orders, see the Second Schedule ;
 - (x) the assessment of compensation for land acquired under the Act, see ss. 16 (4), 40, 74 (3), this Schedule, the Fourth Schedule and the Acquisition of Land (Assessment of Compensation) Act, 1919. See also Part II of the Town and Country Planning Act, 1944, pp. 737 *et seq.*, *post*.

A unified procedure for compulsory purchase by local authorities under any public enactment in force on April 18, 1946, has been introduced by s. 1 of the Acquisition of Land (Authorisation Procedure) Act, 1946, p. 654, *post*. Acquisition under Part III of this Act is excepted from that procedure by s. 1 (4). For acquisition under Part V, however, the provisions of the First and Second Schedules of that Act (pp. 671 *et seq.*, *post*) apply to the exclusion of the First and Second Schedules of this Act.

(a) "**Prescribed form.**"—The following forms have been prescribed by S. R. & O., 1937, No. 78.

- No. 22. Compulsory purchase order in respect of land comprised in a clearance area and land surrounded by or adjoining the area (see Part 4, p. 518, *post*).
- No. 26. Compulsory purchase order in respect of land surrounded by or adjoining a clearance area (see Part 4, p. 523, *post*).
- No. 30. Compulsory purchase order in respect of land which has been cleared of buildings in accordance with a clearance order (see Part 4, p. 526, *post*).
- No. 34. Compulsory purchase order in respect of land comprised in an improvement area (see Part 4, p. 529, *post*).
- No. 38. Compulsory purchase order in respect of a house which cannot be rendered fit for human habitation at a reasonable expense (see Part 4, p. 532, *post*. Purchases under Part II of the Act are not specifically excluded from the operation of the Acquisition of Land (Authorisation Procedure) Act, 1946 ; but the Compulsory Purchase of Land Regulations, 1946 (S. R. & O., 1946, No. 573, p. 701, *post*), which prescribe the forms and notices under that Act, do not purport to supersede the forms and notices prescribed by S. R. & O. 1937, No. 78 in relation to purchases under Part II (see Circular 104/46 of May 24, 1946).
- No. 44. Compulsory purchase order in respect of land in a re-development area (see Part 4, p. 537, *post*).
- No. 48. Compulsory purchase order in respect of land outside a re-development area (see Part 4, p. 540, *post*).

For the prescribed forms under the Acquisition of Land (Authorisation Procedure) Act, 1946, see S. R. & O., 1946, No. 573, p. 701, *post*. These forms supersede so far as purchases under Part V are concerned the forms prescribed in S. R. & O., 1937, No. 78. By s. 36 (6), p. 127, *ante*, the purchase of land for the purposes of re-development for the provision of housing accommodation is to be deemed to be acquired under Part V.

(b) "**Lands Clauses Acts.**"—The expression "Lands Clauses Acts" is defined by the Interpretation Act, 1889, s. 23 (18 Halsbury's Statutes 1001), and means as respects England and Wales "the Lands Clauses Consolidation Act, 1845 (2 Halsbury's Statutes 1113), the Lands Clauses Consolidation Acts Amendment Act, 1860 (2 Halsbury's Statutes 1166), the Lands Clauses Consolidation Act, 1869, and the Lands Clauses (Umpire) Act, 1883 (2 Halsbury's Statutes 1168), and any Acts for the time being in force amending the same." To these Acts specifically enumerated must be added the Lands Clauses (Taxation of Costs) Act, 1895 (2 Halsbury's Statutes 1169), which is as Act "for the time being in force amending the same."

(c) "**Acquisition of Land (Assessment of Compensation) Act, 1919.**"—For this Act and notes thereto, see p. 721, *post*.

(d) **Sections 77 to 85 of the Railways Clauses Consolidation Act, 1845.**—Compulsory purchase orders made under the Act of 1930 were by Part I of the Second Schedule to that Act required to incorporate these provisions. The prescribed form of order under that Act does not make the necessary adaptations. The effect of the inclusion of these sections is that the local authority do not acquire the minerals unless they are expressly purchased. When the time comes for working the minerals they can require sufficient of these to be left to afford the necessary support. An arbitrator in assuming compensation ought not to take the risk of subsidence into consideration, because the legislature has provided a sufficient remedy. The practical result would appear to be that the land is to be valued on the same principles as if it contained no minerals (see *Carlisle (Earl) v. Northumberland County Council* (1911), 75 J. P. 539; 42 Digest 2, 6, a case under the corresponding sections in the Small Holdings and Allotments Act, 1908).

(e) It was doubted whether in view of the provisions of s. 7 of the Acquisition of Land (Assessment of Compensation) Act, 1919 (2 Halsbury's Statutes 1181), that Act could be so modified. The Court of Appeal, however, held in *Ellen Street Estates, Ltd. v. Minister of Health*, [1934] 1 K. B. 590 (C. A.); Digest Supp., that the maxim *leges posteriores priores contrarias abrogant* prevailed and that consequently Parliament could not effectively enact that a provision in one statute should be altered only by express words in another Act. And see also *Vauxhall Estates, Ltd. v. Liverpool Corporation*, [1932] 1 K. B. 733; 95 J. P. 224; Digest Supp.

(f) "**Provisions applicable to the particular case.**"—See ss. 16 (4), 40, 74 (3), and the Fourth Schedule.

In the case of any notice to treat served between November 17, 1944, and November 17, 1949, the basis of assessment of compensation will be subject to the limitation of values by reference to prices current at March 31, 1939, contained in Part II of the Town and Country Planning Act, 1944, pp. 737 *et seq.*, *post*. For the supplemental provisions providing for additional compensation to owner occupiers and for improvements see ss. 58 to 60 of that Act, pp. 740 *et seq.*, *post*. The supplement of 30 per cent. provided for in s. 58 has been increased to 60 per cent. in the case of notices to treat served on or after July 22, 1946, by the Acquisition of Land (Increase of Supplement) Order, 1946 (S. R. & O., 1946, No. 1163). Attention is also directed to s. 61, p. 747, *post*, and the Eighth Schedule to that Act, p. 752, *post*. The effect of these provisions is, in the case of war damaged properties, to convert a cost of works payment into a valuation payment in respect of such damage as has not been made good at the time of the notice to treat.

(g) "**Arbitrator.**"—The arbitrator here referred to is the arbitrator appointed under the Acquisition of Land (Assessment of Compensation) Act, 1919 (2 Halsbury's Statutes 1176).

(h) "**Notice of the order.**"—For prescribed forms of notice, see S. R. & O., 1937, No. 78, pp. 499 *et seq.*, *post*.

(i) **"In the opinion of the arbitrator."**—Provided that the arbitrator forms his opinion on proper material and *bona fide*, his opinion cannot be questioned in a court of law.

(j) **"And."**—This word is important. The arbitrator has not only to form an opinion that the work was not reasonably necessary, he must also hold that it was carried out with a view to obtaining or increasing compensation. As to compensation generally, see p. 719, *post*.

(k) **"Ecclesiastical Leasing Acts."**—These Acts are the Ecclesiastical Leasing Act, 1842 (6 Halsbury's Statutes 833), the Ecclesiastical Leasing Act, 1858 (6 Halsbury's Statutes 875), and an Act of 1865 to amend the last-mentioned Act (28 & 29 Vict. c. 57).—In Wales, see Welsh Church Act, 1914, s. 3. (1) (6 Halsbury's Statutes 1162).

(l) **Section 167.**—P. 293, *ante*. In effect, therefore, the provisions of this section as to the service of notices take the place of the provisions of the Lands Clauses Consolidation Act, 1845, s. 19, p. 798, *post*, as regards service of notices in respect of land purchased compulsorily under the provisions of this Act.

(m) **"Prescribed form."**—See S. R. & O., 1937, No. 78, pp. 499 *et seq.*, *post*.

(n) **"Serve."**—The provisions relating to service of notices are contained in s. 167, p. 293, *ante*. As to prescribed forms of notices to be served on owners, see S. R. & O., 1937, No. 78, pp. 499 *et seq.*, *post*.

(o) **"Owner."**—See definition in s. 188 (1), p. 311, *ante*.

(p) **Section 36.**—That is, the provisions applicable to the compulsory purchase of land in a redevelopment area. For the provisions of this schedule applicable to orders made under that section, see paragraphs 13–14.

(q) **"Public local inquiry."**—As to this, see ss. 178 and 186 and notes thereto, pp. 304, 310, *ante*. In the case of an acquisition under Part V whether under this Schedule or under the Acquisition of Land (Authorisation Procedure) Act, 1946, in the case of orders submitted to the Minister between August 3, 1944, and August 3, 1946, there was no obligation on the Minister to cause a public local inquiry or hearing to be held. See s. 2 of the Housing (Temporary Provisions) Act, 1944, p. 402, *post*, as amended by the Fourth Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, p. 695, *post*.

(r) **"Consider any objection not withdrawn."**—Note that an owner is not entitled to require the Minister to state the grounds on which his property is compulsorily acquired unless the property is included as unfit for human habitation and the objector has complied with the conditions laid down in s. 41 (2), p. 138, *ante*.

(s) **Sub-paragraph (a), para. 5.**—Note that in this case the onus is on the local authority of proving not only that the house is unfit for human habitation but also that it is not capable of being rendered so fit at reasonable expense.

(t) **"Any house indicated in the order," etc.**—See s. 36 (3), p. 127, *ante*, and notes thereto. If the order is confirmed as submitted by the authority, the owner will obtain compensation under s. 40, *i.e.* he will get site value only.

(u) **"Unfit for human habitation."**—See note (j) to s. 9, p. 65, *ante*, and note (h) to s. 25, p. 99, *ante*.

(v) **"Not capable at reasonable expense."**—See s. 9 (3) and notes to s. 11, p. 70, *ante*.

(w) **"Enter into arrangements."**—Such arrangements should be by deed. If the deed contains covenants on the part of the owner, it will be possible for the authority to enforce such covenants under s. 148, p. 280, *ante*.

(x) "**For the carrying out of re-development . . . in accordance with the re-development plan.**"—It appears that the Minister must hold an inquiry if the objector is willing to make arrangements to carry out the re-development of the land or secure the use of the land in accordance with the re-development plan, but he need not hold an inquiry if the objection is that the objector has alternative plans for developing his land. It does not appear, therefore, that an inquiry held into a compulsory purchase order under the re-development sections need in any sense constitute an implied appeal from a decision of a local authority under s. 50 (providing for re-development by owners) as appears to have been suggested by the Minister, who said in the Committee of the House of Commons: "The matter is dealt with in clause 14 (2) [now section 36 (2)] not expressly but by direct implication. It is quite simple, and I will describe how it works. A local authority cannot carry out its scheme of re-development without coming to the Minister for powers of compulsory purchase and for approval of its scheme. When the Minister is considering the application of the local authority, he will have before him the alternative proposals of the owners, and if he is satisfied that the alternative proposals are an adequate way of dealing with the proposed re-development, he can secure the position of the owner by making his assent to the scheme and to the compulsory purchase powers conditional upon acceptance of the owner's scheme."

It seems, therefore, that owners who wish to re-develop any property included in a re-development area and whose proposals for re-development differ from those put forward by the local authority should object to the re-development plan and support their objections at the inquiry held into that plan. If they delay and subsequently object to compulsory purchase on the ground that they have alternative proposals, they may be met with the objection that the Minister is not obliged and does not intend to hear such objections at that inquiry, or even if all objections are in the nature of alternative proposals, that he is under no obligation and does not intend to hold a local inquiry at all.

(y) "**Land outside the re-development area.**"—It appears from s. 36 (1) p. 126, *post*, that land outside the re-development area can be purchased compulsorily only for the purpose of providing accommodation for persons occupying accommodation within the area. The grounds of objections under this paragraph will vary in individual cases. Objections must be framed so as not to relate to the question of compensation.

(z) "**Any objection.**"—It would appear from the wording of this paragraph 5 that the Minister will be under an obligation to hold a local inquiry only if the objections made fall within sub-paras. (a) (b) or (c). In the event of objections being made which do not fall within one or other of these categories, the Minister has a discretion as to whether or not he will hold an inquiry.

(aa) "**In any other case.**"—*I.e.* (i) if there are no objections to the order; or (ii) if the objections do not come within paragraphs (a) (b) or (c).

(bb) "**Confirm the order.**"—As to the validity of orders, see s. 36 (4), p. 127, *ante*, which makes applicable to compulsory purchase orders made under the provisions of the Act relating to re-development areas, the provisions of the Second Schedule; see also the notes to s. 26, p. 105, *ante*.

(cc) **Sections 16, 29, 32 or 38.**—S. 16 gives power to local authorities to acquire and repair houses which have been held by the Court to be not capable of being rendered fit at reasonable expense; see p. 84, *ante*.

S. 29 gives power to a local authority to acquire land in, surrounded by or adjoining a clearance area; see p. 112, *ante*.

S. 32 gives a local authority power to purchase cleared land which the owners have failed to re-develop within eighteen months from the date on which the clearance order became operative; see p. 118, *ante*.

S. 38 gives a local authority power to purchase land for the purpose of opening out an improvement area; see p. 133, *ante*.

(dd) "Notwithstanding anything in section ninety-two of the Lands Clauses Consolidation Act, 1845."—This provision creates an exception to s. 92 of the Lands Clauses Consolidation Act, 1845, which would otherwise apply. That section provides that no party shall be required to sell or convey to the promoters a part only of any house or other building or manufactory, if such party be willing or able to sell and convey the whole thereof. Under the provision in the text the owner may be compelled to sell part only, if the arbitrator determines that such part can be revised without material detriment, and compensation will be payable in respect of the severance. If the arbitrator finds that the part cannot be so severed, then it seems the local authority will have to purchase the whole—it is not clear that they can withdraw their notice to treat as in the case of a counter-notice under s. 92. For s. 92, see p. 813, *post*.

(ee) Section 29.—See p. 112, *ante*.

(ff) Paragraph 9 (a).—For the power to purchase land surrounded by or adjoining the clearance area, see p. 110, *ante*.

(gg) Paragraph 9 (b).—As to compensation in these cases, see s. 40, p. 135, *ante*.

SECOND SCHEDULE.

(Sections 16, 26, 29, 32, 35, 36, 38, 74.)

VALIDITY AND DATE OF OPERATION OF CERTAIN ORDERS.

1. So soon as may be after a compulsory purchase order or a clearance order has been confirmed by the Minister, the local authority shall publish in a newspaper circulating in their district a notice in the prescribed form (a) stating that the order has been confirmed, and naming a place where a copy of the order as confirmed and of the map referred to therein may be seen at all reasonable hours, and shall serve a like notice (b) on every person who, having given notice to the Minister of his objection to the order, appeared at the public local inquiry in support of his objection.

2. (c) If any person aggrieved by such an order as aforesaid, or by the Minister's approval of a re-development plan or of a new plan, desires to question the validity thereof on the ground that it is not within the powers of this Act or that any requirement of this Act has not been complied with, he may, within six weeks after the publication of the notice of confirmation of the order, or of the approval of the plan, make an application for the purpose to the High Court, and where any such application is duly made the court—

(i) may by interim order suspend the operation of the order, or the approval of the plan, either generally or in so far as it affects any property of the applicant until the final determination of the proceedings; and

(ii) if satisfied upon the hearing of the application that the order, or the approval of the plan, is not within the powers of this Act or that the interests of the applicant have been substantially prejudiced by any requirement of this Act not having been complied with, may quash the order, or the approval of the plan, either generally or in so far as it affects any property of the applicant.

3. Subject to the provisions of the last preceding paragraph, the order, or the approval of the plan, shall not be questioned by prohibition or certiorari or in any legal proceedings whatsoever, either before or

after the order is confirmed or the approval is given, as the case may be, and shall become operative at the expiration of six weeks from the date on which notice of confirmation of the order, or of the approval of the plan, is published in accordance with the provisions of this Act.

4. Except by leave of the Court of Appeal, no appeal shall lie to the House of Lords from a decision of the Court of Appeal in proceedings under this Schedule.

5. So soon as may be after a compulsory purchase order made under section sixteen, twenty-nine, thirty-two, thirty-eight or seventy-four of this Act or a clearance order has become operative, the local authority shall serve (a) a copy thereof on every person on whom a notice was served by them of their intention to submit the order to the Minister for confirmation.

NOTES TO SECOND SCHEDULE.

This Schedule consolidates the law relating to the validity and date of operation of orders contained in ss. 11 and 50 (2) of the Act of 1930 and s. 16 (3) of the Act of 1935. Acquisitions otherwise than under Part III are now subject to the provisions of the Acquisition of Land (Authorisation Procedure) Act, 1946. The provisions as to date of operation and validity of Compulsory Purchase Orders under that Act are contained in Part IV of the First Schedule to that Act, p. 677, *post*. Under that Act the order becomes operative on the date on which notice is first published of its confirmation. Application may be made to the Court to challenge the validity within six weeks thereafter and the Court may by interim order suspend the operation of the order until final determination. If there is no application to the Court notice to treat can be served and entry made after fourteen days' notice thereafter.

(a) "Notice in the prescribed form."—For these forms, see S. R. & O., 1937, No. 78, pp. 499 *et seq.*, *post*, *passim*.

(b) "Serve a like notice."—As to service of such notices, see ss. 164–167, *ante*. And see also *West Ham Corporation v. Charles Benabo & Sons*, [1934] 2 K. B. 253; 98 J. P. 287; Digest Supp.

(c) Paragraph 2.—See on this matter the notes to s. 26, p. 105, *ante*, and cases there cited.

Quaere whether the provisions of this schedule take away prohibition or *certiorari*. See an Irish case, *The State (Wood) v. West Cork Board of Health and Minister for Local Government*, [1936] I. R. 401.

In *Re Bowman, South Shields (Thames Street) Clearance Order*, 1931, [1932] 2 K. B. 621; Digest Supp., SwIFT, J., said, at p. 635, that under these provisions, "I do not think that this Court is authorised to retry or to rehear the case, or re-consider the matter which the local authority have been entrusted with, and I do not think that this Court has any right to interfere in the decision at which they have arrived." It was suggested, however, by the Judge in that case that the circumstances might be different when there was no material, no information, no representation before the local authority upon which as reasonable people they could be satisfied that an order ought to be made.

The judgment in *Re Bowman* was confirmed and further explained in *Re Falmouth (Well Lane, Sedgmonds' Court and Smithick Hill) Clearance Order*, 1936, *Halse's Application*, [1937] 3 All E. R. 308; Digest Supp. In *Estate and Trust Agencies (1927), Ltd. v. Singapore Improvement Trust*, [1937] A. C. 898; [1937] 3 All E. R. 324; Digest Supp., the Privy Council, however, reviewed the evidence and approved the principles of *Hall v. Manchester Corporation* (1915), 84 L. J. (Ch.) 732; 38 Digest 212, 470. See notes to s. 25, p. 95, *ante*. See also *Re London County Council (Riley Street, Chelsea, No. 1) Order*, 1938, [1945] 2 All E. R. 484.

(d) "Serve."—As to service of notices, see s. 167, p. 293, *ante*.

THIRD SCHEDULE.

(Section 26.)

CLEARANCE ORDERS.

1. A clearance order shall be in the prescribed form and shall describe by reference to a map the area to which it applies, and shall fix by reference to the date on which it becomes operative (a) the period, not being less than twenty-eight days from that date, within which the authority require the buildings in the area to be vacated for the purposes of demolition, and for that purpose may fix different periods as respects different buildings.

2. (b) There shall be excluded from the order any houses or other buildings properly included in the clearance area only on the ground that by reason of their bad arrangement in relation to other buildings, or the narrowness or bad arrangement of the streets, they are dangerous or injurious to the health of the inhabitants of the area :

Provided that the foregoing provisions of this paragraph shall not apply to a building constructed or adapted as, or for the purposes of, a dwelling, or partly for those purposes and partly for other purposes, if any part (not being a part used for other purposes) is by reason of disrepair or sanitary defects unfit for human habitation.

3. Before submitting the order to the Minister the local authority shall—

- (a) publish in one or more newspapers circulating within their district a notice in the prescribed form stating the fact of such an order having been made and describing the area comprised therein and naming a place where a copy of the order and of the map referred to therein may be seen at all reasonable hours ; and
- (b) serve on every owner, lessee and occupier (except tenants for a month or a less period than a month) of any building included in the area to which the order relates and so far as it is reasonably practicable to ascertain such persons, on every mortgagee thereof, a notice in the prescribed form stating the effect of the order and that it is about to be submitted to the Minister for confirmation, and specifying the time within and the manner in which objections thereto can be made.

4. So soon as may be after the required notices have been given, the local authority shall submit the order to the Minister for confirmation.

5. If no objection is duly made by any of the persons upon whom notices are required to be served, or if all objections so made are withdrawn, the Minister may, if he thinks fit, confirm the order with or without modification ; but in any other case he shall, before confirming the order, cause a public local inquiry to be held and shall consider any objection not withdrawn and the report of the person who held the inquiry, and may then confirm the order, either with or without modification :

Provided that the order as confirmed by the Minister shall not apply to any building to which the order would not have applied if it had been confirmed without modification.

6. The Minister may confirm an order notwithstanding that the effect of the modifications made by him in excluding any buildings from the clearance area is to sever that area into two or more separate and distinct areas, and in any such case the provisions of this Act relating to

the effect of an order when confirmed and to the proceedings to be taken subsequent to the confirmation thereof shall apply as if those areas formed one clearance area.

NOTES TO THIRD SCHEDULE.

This Schedule consolidates the law contained in Sched. I of the 1930 Act and s. 62 (1) of the 1935 Act.

The circumstances in which a local authority may declare an area to be a clearance area are set out in s. 25, p. 94, *ante*. The power to make a clearance order is conferred by s. 26, p. 103, *ante*, by which section it is enacted that the provisions of this Schedule are to have effect with respect to the making, submission and confirmation of clearance orders.

Directions to Local Authorities.

1. A clearance order *must* be in the form prescribed by the Minister. This form will be found at p. 514, *post*. The power to prescribe forms is conferred by s. 176, p. 302, *ante*.

2. The order must be under seal. See s. 164, p. 292, *ante*.

3. A clearance order *must* describe by reference to a map the area to which it applies. On this point see notes to s. 25, p. 95, *ante*.

4. A clearance order *must* fix, by reference to the date on which it becomes operative, the period, not being less than twenty-eight days from that date, within which the authority require the buildings in the area to be vacated for the purposes of demolition, and for that purpose *may* fix different periods as respects different buildings. For the provisions relating to the recovery of possession of buildings subject to a clearance order, see s. 155, p. 283, *ante*, and s. 156, p. 285, *ante*. In fixing the period in which the buildings are to be demolished, the authority will doubtless have regard to the rehousing accommodation available or about to become available. For the date on which a clearance order becomes operative, see Second Schedule, *ante*.

5. Before submitting the order to the Minister the local authority *must* :

(a) publish in a local newspaper a notice in the form prescribed by the Minister as directed by paragraph 3 (a) of the Schedule. (For prescribed form, see S. R. & O., 1937, No. 78, Form No. 15, p. 517, *post*) ;

(b) serve a notice in the form prescribed by the Minister on owners, lessees and occupiers (other than tenants for a month or less). (For the prescribed form, see S. R. & O., 1937, No. 78, Form No. 14, p. 516, *post*, and for definition of "owner," see s. 188, p. 311, *ante* ; see also the provision contained in s. 168, p. 294, *ante*.)

6. As soon as may be after the required notices have been given, the local authority *must* submit the order to the Minister for confirmation.

Directions to Owners, etc.

Any person on whom notice of the order is required to be served may object to the confirmation of the order. The objection must be made in writing, state the grounds of objection, and be addressed to The Minister of Health, Whitehall, London, S.W. 1. A copy of the objection should be made and retained by the person making it. There is no obligation on the part of the objector to supply the local authority with a copy, but this may be done as an act of courtesy.

The following form of objection will serve as a guide, but it must of course be adapted to the circumstances of each case.

HOUSING ACT, 1936.

TO THE MINISTER OF HEALTH, Whitehall, London, S.W. 1.

Take notice that [name] of [address] objects to the clearance order made by [name of local authority] in pursuance of their powers under Part III of the Housing Act, 1936, on the day of , 19 , which said order has been or is about to be submitted to the Minister for confirmation.

The grounds of objection are [*any of the following*] :

- (1) That the requirements of the relevant statutory provisions have not been complied with, in that [*set out particulars of non-compliance*] ;
- (2) That the conditions existing in the area to which the said order relates do not justify the treatment of the said area as a clearance area in respect of which a clearance order ought to be made ;
- (3) That there is no suitable accommodation available for the persons who will be displaced if the said order becomes effective and that the said order is therefore premature ;
- (4) The most satisfactory way of dealing with the conditions in the area is not to demolish all the buildings in the area but to deal with the area as an improvement area ;
- (5) That property known and described as [*description*] of which the objector is owner [*or lessee, etc.*], has been wrongly included in the area and ought to be excluded. [*State grounds for this contention*] ;
- (6) That the property known and described as [*description*] of which the objector is owner [*or lessee, etc.*], is not unfit for human habitation and ought to be excluded from the order. [*State grounds for this contention.*]
- (7) That the time fixed for the demolition of the said property is insufficient in the circumstances.

Dated the day of , 19 .

(Signed)

Where any objections are duly made, unless all such objections are withdrawn, the Minister *must* hold a local inquiry and he *must* consider every objection not withdrawn and the report of the person who held the inquiry, after which he may confirm the order with or without modifications but not so as to include any building which would not have been included in the order had the Minister not so modified it.

The Local Inquiry. For the statutory provisions relating to local inquiries held under this Act, see ss. 178 and 186, pp. 304, 310, *ante*. As to costs of objectors, see s. 43, p. 144, *ante*, and see also Introduction, Chapter 3, p. 29, *ante*.

The usual practice is for the Minister of Health to send one of his inspectors to hold the inquiry. The case for an objector requires careful preparation. Each ground of objection should be supported by the best evidence obtainable. The local authority enjoy the advantage, in the matter of witnesses, of being able to call in every case the medical officer of health, whose evidence of course carries great weight. It is not easy for a private individual to obtain the assistance of a medical practitioner specially qualified in matters relating to public health. But it is advisable to obtain such a witness if possible in all cases of great importance.

The local authority begin the inquiry by opening their case in support of the order and call their witnesses. Objectors then have an opportunity of cross-examining. It is convenient and fair to the local authority to follow the general rule with regard to cross-examination and to put the objectors' case quite frankly to the authority's witnesses in order that they may have the opportunity of making their observations thereon. This obviates the necessity of recalling the local authority's witnesses after the objector has concluded his case. An objector as a general rule will find it convenient merely to indicate to the inspector in a few words the nature of his case and then to call his witnesses. He may then address the inspector on his case, summing up the evidence and making his points. Objectors appearing in person at the inquiry are advised to write out a careful statement of their case and to hand this to the inspector. If they have no witnesses in support of their case, they should indicate to the inspector those points which they particularly wish him to notice when he visits the area.

The inspector invariably makes a personal inspection of the area, either alone or accompanied by the authority's officials and such objectors as wish to go with him, and it must be remembered that the impression he forms,

which will be recorded in his report, will doubtless weigh very considerably with the official at the Ministry who is deputed to consider the report and determine matters arising thereon. The inspector's report is a secret document, a fact which has given rise to considerable adverse comment.

By s. 41 (2), however, any objector who appears at the local inquiry and whose property is subsequently included in the order as unfit for human habitation is entitled, on making a request in writing, to be furnished with a statement of the Minister's reasons for deciding that the building is unfit.

(a) "**Date on which it becomes operative.**"—See preceding schedule, para. 2.

(b) **Paragraph 2.**—Note that buildings included in the area only on the ground that by reason of their bad arrangement in relation to other buildings or the narrowness or bad arrangement of the streets, they are dangerous and injurious to the health of the inhabitants of the area must be excluded from the order. The practical effect of this is that if the local authority require their demolition they will have to acquire them at their market value. Cf. s. 40, p. 135, *ante*.

FOURTH SCHEDULE.

(Sections 40, 55, 74.)

RULES AS TO THE ASSESSMENT OF COMPENSATION WHERE LAND PURCHASED COMPULSORILY UNDER PART III OTHERWISE THAN AT SITE VALUE OR UNDER PART V.

1. If the arbitrator is satisfied with respect to any premises that the rental thereof was enhanced by reason of their being used for illegal purposes, or being overcrowded within the meaning of Part V of this Act (a), the compensation shall, so far as it is based on rental, be based on the rental which would have been obtainable if the premises were occupied for legal purposes, and were not so overcrowded.

2. If the arbitrator is satisfied that any premises are in a state of defective sanitation, or are not in reasonably good repair, the compensation shall be the estimated value of the premises if put into a sanitary condition, or reasonably good repair, less the estimated expense of putting them into such condition or repair.

3. The local authority may tender evidence as to the matters aforesaid, notwithstanding that they have not taken any steps with a view to remedying the defects or evils disclosed by the evidence, but before tendering evidence as to sanitation or repair, the authority shall furnish to the arbitrator and to the claimant a statement in writing of the respects in which the premises are alleged to be so defective.

4. (b) The arbitrator shall have regard to and make an allowance in respect of any increased value which, in his opinion, will be given to other premises of the same owner—

- (a) where the premises for which compensation is to be assessed are purchased under section thirty-six of this Act, by the proposed re-development of the area in accordance with the re-development plan ; or
- (b) in any other case by the demolition by the local authority of any buildings.

5. (c) In assessing compensation for premises purchased under section thirty-six of this Act, the arbitrator may take into account and embody in his award any undertaking given by the local authority with respect to the time within which, and the manner in which, the re-development or any part thereof is to be carried out, and the terms of any undertaking so embodied in the award shall be binding on and enforceable against the authority.

6. The arbitrator shall embody in his award a statement showing separately whether compensation has been reduced by reference to the use of the premises for illegal purposes, to overcrowding, to the considerations mentioned in paragraph 2 of this Schedule and to the considerations mentioned in paragraph 4 thereof, and the amount, if any, by which compensation has been reduced by reference to each of those matters.

NOTES TO FOURTH SCHEDULE.

This Schedule re-enacts Part II of the Third Schedule to the Housing Act, 1930, as amended by s. 90 of the Housing Act, 1935, and extended by s. 17 (1) of that Act. See note (f) of the notes to the 1st Schedule, p. 326, *ante*.

(a) "**Overcrowded within the meaning of Part V.**"—See s. 58 and the succeeding schedule.

(b) **Paragraph 4.**—The result of this provision is that the arbitrator will have to estimate the increased value given to other buildings of the same owner, but if the other buildings are in a different ownership apparently he is under no duty to estimate the increased value nor is there any power to charge other owners with such "betterment."

(c) **Paragraph 5.**—This paragraph is presumably intended to prevent a local authority obtaining a reduction in the price of buildings they are acquiring by reason of betterment from a proposed re-development and subsequently failing to carry out the re-development. It must be noticed that the arbitrator is under a duty by para. (6) to specify in his award the amount by which compensation has been reduced by reason of the "betterment" to other property of the same owner.

FIFTH SCHEDULE.

(Sections 58, 62, 68.)

NUMBER OF PERSONS PERMITTED TO USE A HOUSE FOR SLEEPING.

For the purposes of Part IV of this Act, the expression "the permitted number of persons" means, in relation to any dwelling-house (a), either—

- (a) the number specified in the second column of Table I in the annex hereto in relation to a house consisting of the number of rooms of which that house consists, or
- (b) the aggregate for all the rooms in the house obtained by reckoning, for each room therein of the floor area specified in the first column of Table II in the annex hereto, the number specified in the second column of that Table in relation to that area,

whichever is the less :

Provided that in computing for the purposes of the said Table I the number of rooms (b) in a house, no regard shall be had to any room having a floor area of less than 50 square feet.

ANNEX.

Table I.

Where a house consists of—

(a) One room	.	.	.	2.
(b) Two rooms	.	.	.	3.
(c) Three rooms	.	.	.	5.
(d) Four rooms	.	.	.	7½.
(e) Five rooms or more	.	.	.	10, with an additional 2 in respect of each room in excess of five.

Table II.

Where the floor area of a room is—

(a) 110 sq. ft. or more	.	.	.	2.
(b) 90 sq. ft. or more, but less than 110 sq. ft.	.	.	.	1½.
(c) 70 sq. ft. or more, but less than 90 sq. ft.	.	.	.	1.
(d) 50 sq. ft. or more, but less than 70 sq. ft.	.	.	.	½.
(e) Under 50 sq. ft.	.	.	.	Nil.

NOTES TO FIFTH SCHEDULE.

This Schedule reproduces Schedule I to the Housing Act, 1935. For the Minister's explanation of this schedule and examples, see Memorandum B, p. 608, *post*.

(a) "**Dwelling-house.**"—For definition, see s. 68, p. 184, *ante*.

(b) "**Room.**"—For definition, see s. 68. For the method of determining the floor area of a room, see S.R. & O., 1937, No. 80, Art. 4, p. 547, *post*.

SIXTH SCHEDULE.

(Section 106.)

COMPUTATION OF GOVERNMENT CONTRIBUTIONS TOWARDS PROVISION OF FLATS ON SITES OF HIGH VALUE AND OF VALUE OF SITES.

1. In relation to an Exchequer contribution under section one hundred and six of this Act "the appropriate sum" means in the case of a site of such cost as is specified in the first column of the following Table, the corresponding sum specified in the second column of the said Table :—

TABLE.

Where the cost of the site as developed per acre—

	£	s.	d.
exceeds £1,500 but does not exceed £4,000	.	.	.
exceeds £4,000 but does not exceed £5,000	.	.	.
exceeds £5,000 but does not exceed £6,000	.	.	.
exceeds £6,000	.	.	.
	6	0	0
	7	0	0
	8	0	0
	8	0	0
increased by £1 0 0 for each additional £2,000, or part of £2,000, in the cost per acre of the site as developed.			

2. For the purposes of section one hundred and six of this Act and of this Schedule, the cost of a site as developed means the cost, or, in the case of a site not purchased by the local authority for the purpose of the provision of the flats, the value as certified by the Minister, of the site, including any expenses which in the opinion of the Minister are requisite for making the site available for that purpose and which are incurred by the authority in the construction or widening of streets, the construction of sewers, or the execution of any special works rendered necessary by the physical characteristics of the land, and any expenses incurred in respect of any other matters which the Minister with the consent of the Treasury may approve as properly forming part of the cost of making the site available for that purpose.

The amount of the expenses to be included under this paragraph shall be such as may be estimated by the authority and approved by the Minister.

3. In determining the number of acres in a site, any land which is acquired for the purpose of the provision of the flats and which is used as new street space on which the block of flats will abut shall be deemed to form part of the site.

NOTES TO SIXTH SCHEDULE.

The Schedule reproduces the Third Schedule to the Act of 1935. It details the Exchequer contributions to be made by the Minister under s. 106 of the Act. No contributions are payable under s. 106 in respect of houses completed after January 1, 1939. See s. 10 (1) of the Housing (Financial Provisions) Act, 1938, p. 398, *post*. For contributions in respect of blocks of flats on expensive sites see now s. 4 of the Housing (Financial and Miscellaneous Provisions) Act, 1946, p. 432, *post*, and the First Schedule to that Act, p. 461, *post*.

SEVENTH SCHEDULE.

(Sections III, 134.)

DETERMINATION OF THE AMOUNT OF CERTAIN GOVERNMENT CONTRIBUTIONS PAYABLE UNDER SECTION 7 OF THE ACT OF 1919, AND SUBSECTION (3) OF SECTION I OF THE ACT OF 1923.

Contributions under S. 7 of the Act of 1919.

1. For the purposes of this Schedule and of the Eighth and Tenth Schedules to this Act—

- (a) a scheme under the Act of 1919 means a scheme to which section seven of that Act applies (a), other than a scheme for the provision of houses for persons in the employment of, or paid by, a county council or a statutory committee thereof (b);
- (b) all schemes and parts of schemes under the Act of 1919 which for the time being are being administered by a local authority shall be deemed to be a single scheme carried out by the authority.

2. Notwithstanding anything in any enactment, the amount of the Exchequer contribution (c) for any financial year under section seven of the Act of 1919 towards the loss resulting from the carrying out of a scheme under the Act of 1919 by a local authority (not being the London County Council or a metropolitan borough council) (d) shall be the amount, if any, by which the estimated loss for that year in respect of the scheme, ascertained as provided by paragraphs 3 to 7 of this Schedule, exceeds an amount equal to the produce (ascertained as provided by paragraph 8 of this Schedule) of a rate of one penny in the pound for that year levied in the area chargeable with the expenses of the scheme.

3. The estimated loss for any financial year shall be the amount by which the estimated expenditure for that year in respect of the scheme exceeds the estimated income for that year.

4. The estimated income for any financial year shall be the sum of the estimated annual rent income (that is to say an amount equal to the aggregate weekly rents of the houses provided or acquired by the authority under the scheme which, as at the thirty-first day of March, nineteen hundred and thirty-five, are accepted by the Minister for the purpose of the determination of the Exchequer contribution payable in respect of the scheme, multiplied by fifty-two and one-sixth) and any other items of income which, in the opinion of the Minister, may properly be taken into account.

5. The estimated expenditure for any financial year shall be determined in the following manner :—

(1) There shall be ascertained—

(a) the aggregate amount of the charges during the five years ending on the thirty-first day of March, nineteen hundred and thirty-five, in respect of supervision and management, repairs, unoccupied houses and irrecoverable rents, accepted by the Minister for the purpose of the determination of the Exchequer contribution payable in respect of the scheme, exclusive of expenditure, if any, incurred during the said five years on repairs of an abnormal and non-recurring nature and of sums, if any, written off during the said five years in respect of arrears of rents which had occurred in exceptional circumstances ;

(b) the aggregate amount of the gross estimated rent income during the five years ending on the thirty-first day of March, nineteen hundred and thirty-five, as accepted by the Minister for the purpose of the determination of the Exchequer contribution payable in respect of the scheme ;

(c) the aggregate of, first, the amount which bears the same proportion to the estimated annual rent income as the amount ascertained under head (a) of this sub-paragraph bears to the amount ascertained under head (b) thereof and, secondly, an amount equal to two per cent. of the estimated annual rent income ;

(d) the aggregate amount of loan charges for the year in respect of money borrowed for the purposes of the scheme, reduced by the amount, if any, of loan charges for the year relating to expenditure not approved by the Minister for the purpose of the determination of the Exchequer contribution payable in respect of the scheme ;

(e) any other items of expenditure which, in the opinion of the Minister, may properly be taken into account :

Provided that, where moneys borrowed for the purposes of the scheme are repaid by means of a reborrowing, the rate of interest by which the loan charges in respect of those moneys are to be determined for the purposes of head (d) of this sub-paragraph shall, unless the Minister otherwise directs, be the rate at which the moneys are reborrowed, or the rate which, at the date of reborrowing, was the rate fixed by the Treasury under section one of the Public Works Loans Act, 1897 (e), in respect of loans to local authorities advanced out of the Local Loans Fund for the purposes of Part V of this Act, whichever is the less.

- (2) The estimated expenditure for the financial year shall be the sum of the amounts ascertained under heads (c), (d) and (e) of the foregoing sub-paragraph.

6. If and to the extent to which an agreement made before the first day of April, nineteen hundred and thirty-five, by a local authority with the Minister under regulations made in pursuance of subsection (2) of section forty-five of the Housing Act, 1930 (f), provides for the determination of the estimated annual loss resulting from the carrying out of a scheme under the Act of 1919 or of any item of estimated income or expenditure, that matter shall be determined in the manner provided in the agreement and not in the manner provided in the foregoing provisions of this Schedule.

7. Where, after the thirty-first day of March, nineteen hundred and thirty-five, the number of dwellings included in a scheme under the Act of 1919 is changed by reason of the sale of houses, closing or demolition of huts or other temporary dwellings, alterations of boundaries, or otherwise, the Minister may make such adjustments of the amounts of the estimated losses in respect of periods subsequent to the date of change as he may deem equitable.

8. In relation to a scheme under the Act of 1919, the produce of a rate of one penny in the pound for any financial year levied in any area shall be an amount ascertained in accordance with the following provisions :—

- (1) the produce of a rate for any period shall be deemed to be the amount actually realised during that period by the collection of rates in that area.
- (2) the produce of a rate of one penny in the pound shall be deemed to be that proportion of the produce of a rate which one penny bears to the total amount in the pound of the rate.
- (3) where it is desired to ascertain the amount of the produce of a rate of one penny in the pound levied in any area comprising two or more parts which are differentially rated, the said amount shall be separately ascertained in respect of each of those parts in accordance with the foregoing sub-paragraphs, and the sum of the amounts so ascertained shall be the produce of a rate of one penny in the pound levied in the said area.

Contributions under S. 1 (3) of the Act of 1923.

9. Notwithstanding anything in any enactment, the amount of the Exchequer contribution for any financial year under subsection (3) of

section one of the Act of 1923 (g) towards the expenses incurred by a local authority in carrying out a scheme to which that subsection applies shall be an amount equal to one-half of the estimated loss for that year incurred in carrying out the scheme, ascertained as provided by paragraphs 3 to 7 of this Schedule, subject to such modifications as the Minister with the approval of the Treasury may determine to be necessary having regard to the date of the completion of the operations or expedient in all the circumstances.

NOTES TO SEVENTH SCHEDULE.

This Schedule reproduces Part II of the Fourth Schedule to the Act of 1935.

General Note.—This Schedule forms part of the general policy of the Act to consolidate the provisions relating to the contributions made by the Exchequer towards the cost of housing schemes under the various housing Acts. The provisions of this Schedule are, by the operation of s. 111, in effect substituted for the provisions of the series of regulations governing the payment of Exchequer contributions under s. 7 of the Act of 1919 and subsection (3) of s. 1 of the Act of 1923. The history of s. 7 is set out in the notes to s. 111, p. 242, *ante*. As to the meaning of the term "Exchequer Contributions," see s. 188 (1), p. 311, *ante*. By s. 129 (1) (b) local authorities are under a duty to credit to their Housing Revenue Account in each financial year any sums received by them under this Schedule.

(a) **Section 7 of the Act of 1919.**—For the provisions of this repealed section, see note (b) to s. 111, p. 243, *ante*.

(b) S. 99 and Part II of the Seventh Schedule to the Act of 1935 which repealed s. 6 (1) of the Act of 1923 in so far as it saved the validity of and the power to amend regulations under s. 7 of the Act of 1919 specifically preserved the regulations relating to schemes for the provision of houses for persons in the employment of or paid by a county council or a statutory committee thereof. For these regulations, see pp. 469, 472, *post*.

(c) **"Exchequer contribution."**—This term is defined by s. 188 (1), p. 311, *ante*.

(d) See s. 134, p. 266, *ante*, and the Tenth Schedule, p. 346, *post*.

(e) **"Public Works Loans Act, 1897."**—See 12 Halsbury's Statutes 296.

(f) **S. 45 (2) of Housing Act, 1930.**—S. 45 was repealed by the Housing Act, 1935, s. 99 and Part I of the Seventh Schedule. S. 45 provided :

45. *Amendment of provisions as to the calculation of contributions payable to local authorities in respect of certain schemes.*—(1) The provisions of this section shall, as from the first day of April, nineteen hundred and thirty, have effect with respect to the determination of the amount of any annual payment to be made :

(a) by the Minister to a local authority under section seven of the Housing, Town Planning, etc., Act, 1919, and section six of the Housing, etc., Act, 1923, by way of contribution towards losses incurred by the authority in carrying out any such scheme as is mentioned in the said section seven ; or

(b) by the London County Council to the council of a metropolitan borough under section eight of the Housing Act, 1921, and section six of the Housing, etc., Act, 1923, in repayment of losses incurred by the council of the borough in carrying out any such scheme as aforesaid.

(2) Notwithstanding anything contained in the said enactments or in the regulations made thereunder, it shall not be necessary that the amount of any annual payment to which this section relates shall be determined on the basis

of the estimated annual loss resulting from the carrying out of the scheme in respect of which the payment is to be made and, accordingly, amending regulations made under the said enactments by the Minister, with the consent of the Treasury, may provide that, for the purpose of the financial year commencing on the said first day of April and of every subsequent financial year, the amount of any such annual payment may be determined either :

- (a) on the basis of the actual loss resulting during the year from the carrying out of the scheme ; or
- (b) if it is so agreed between the Minister and the local authority, or, as the case may be, if, with the approval of the Minister, it is so agreed between the London County Council and the council of the metropolitan borough, on the basis of the estimated annual loss resulting from the carrying out of the scheme ; or
- (c) if it is so agreed as aforesaid, on the basis of actual income or expenditure as respects some items required to be brought into account, and on the basis of estimated income or expenditure as respects other such items.

(g) **S. 1 (3) of the Act of 1923.**—This section was repealed by s. 26 (5) of the Act of 1930 and the Sixth Schedule, but the repeal was not to affect any liability of the Minister to pay any contribution which he had undertaken to pay before the commencement of the 1930 Act. The provisions in this paragraph now supersede all previous undertakings by the Minister.

For text of this section, see notes to s. 111, p. 243, *ante*.

EIGHTH SCHEDULE.

(Sections 86, 114, 117, 129, 130, 134.)

LOCAL AUTHORITIES' CONTRIBUTIONS.

1. In respect of a scheme carried out by the local authority under the Act of 1919 (*a*), a contribution for each financial year during the remainder of the period during which loan charges in respect of money borrowed for the purposes of the scheme are payable, of an amount equal to the produce (ascertained as provided by paragraph 8 of the Seventh Schedule to this Act) of a rate of one penny in the pound for that year levied in the area chargeable with the expenses of the scheme, together with the amount of any loan charges for that year in respect of money borrowed for expenditure in connection with the scheme which was not approved by the Minister for the purpose of the determination of the Exchequer contribution :

Provided that, in respect of any year during which no contributions are payable by the Minister in respect of the scheme, this paragraph shall have effect with the substitution, for the reference to an amount equal to the produce of such a rate as is therein mentioned, of a reference to an amount equal to the estimated loss (ascertained as provided by paragraphs 3 to 7 of the Seventh Schedule to this Act) for that year in respect of the scheme.

2. In respect of a house in respect of which the Minister has undertaken under paragraph (b) of subsection (1) of section one of the Act of 1923 (*b*) as originally enacted to pay an Exchequer contribution payable to the local authority, a contribution for each financial year during the remainder of the period of twenty years from the completion of the house, of an amount equal to the amount of the Exchequer contribution in respect of the house for that year, or an amount equal to the average annual amount contributed out of the general rate fund in respect of the

house during the five financial years ending on the thirty-first day of March, nineteen hundred and thirty-five, whichever is the less.

3. In respect of a scheme in respect of which an Exchequer contribution is payable to the local authority under subsection (3) of section one of the Act of 1923 (c), a contribution for each financial year for which the Exchequer contribution is so payable, of an amount equal to the amount of the Exchequer contribution for that year, together with the amount of any loan charges for that year in respect of money borrowed for expenditure in connection with the scheme which was not approved by the Minister for the purpose of the determination of the Exchequer contribution.

4. In respect of a house in respect of which the Minister has undertaken under paragraph (b) of subsection (1) of section one of the Act of 1923 (as amended by sections one and two of the Act of 1924) to pay an Exchequer contribution payable to the local authority, a contribution for each financial year during the remainder of the period of sixty years from the completion of the house, of the annual amount, calculated by reference to a period of sixty years, equivalent to four pounds ten shillings a year payable for a period of forty years, or, in the case of a house completed after the thirtieth day of September, nineteen hundred and twenty-seven, three pounds fifteen shillings a year payable for a period of forty years :

Provided that—

- (a) where immediately before the first day of April, nineteen hundred and thirty-five, the amount of the annual expenses to be borne by the local rate, as estimated for the purpose of compliance with the requirements of paragraph (e) of subsection (1) of section three of the Act of 1924, or of subsection (7) of section one of the Act of 1931, as the case may be, was a sum less than the annual amount, calculated by reference to a period of sixty years, equivalent to four pounds ten shillings a year payable for a period of forty years, or three pounds fifteen shillings a year payable for a period of forty years, as the case may be, the annual amount of the contribution shall be that lesser sum ;
- (b) in the case of a house in respect of which the county council make a contribution, this paragraph shall have effect as if there were substituted, for references therein to a sum of four pounds ten shillings or of three pounds fifteen shillings, references to the difference between that sum and the amount of the county council's contribution.

5. In respect of a house in respect of which the Minister has undertaken under section one hundred and five of this Act to pay an Exchequer contribution payable to the local authority, a contribution for each financial year during the period, or remainder of the period, as the case may be, of sixty years from the completion of the house, of the annual amount, calculated by reference to a period of sixty years, equivalent to three pounds fifteen shillings a year payable for a period of forty years, or, if the county council make a contribution, the difference between that contribution and three pounds fifteen shillings.

6. (a) In respect of a house in respect of which the Minister has undertaken under section one hundred and six, one hundred and seven or one hundred and eight of this Act to pay an Exchequer contribution payable

to the local authority, a contribution provided by equal annual instalments during a period of sixty years from the date of the completion of the house, of such amount as to be equivalent when so provided to the appropriate one of the following sums, namely :—

- (a) in the case of a flat in respect of which an Exchequer contribution is to be made under section one hundred and six of this Act, a sum equal to one-half of the amount of the Exchequer contribution provided annually for a period of forty years ;
- (b) in the case of a house or flat in respect of which an Exchequer contribution is to be made under section one hundred and seven of this Act, a sum equal to one-half of the amount of the Exchequer contribution provided annually for the period for which the Exchequer contribution is payable ;
- (c) in the case of a house provided for members of the agricultural population in respect of which an Exchequer contribution is to be made under section one hundred and eight of this Act, a sum of one pound provided annually for a period of forty years :

Provided that, where the local authority are of opinion that the contribution should be provided by annual instalments during a period of less than sixty years, the Minister may on their application direct that this paragraph shall have effect in relation to the contribution as if there had been substituted therein, for the reference to a period of sixty years, a reference to such period, not being less than that for which the Exchequer contribution is payable, as he may think proper.

7. (e) The contributions payable by the local authority under section thirty-nine of the Housing Act, 1935.

8. Where in any financial year a deficit is shown in the Housing Revenue Account, a contribution (in this Act referred to as an additional contribution (f)) for that financial year of an amount equal to the amount of the deficit.

9. Where—

- (a) a local authority satisfy the Minister that their contribution in respect of such houses as are mentioned in paragraph 2, 4, or 5 of this Schedule should, having regard to the extent to which repayment or provision for repayment of money borrowed for expenditure in connection with the provision of the houses has been made before the first day of April, nineteen hundred and thirty-five, be of an amount less than the amount specified in that paragraph ; or
- (b) a local authority are of opinion that their contribution in respect of such houses as are mentioned in paragraph 4 or 5 of this Schedule should, having regard to the arrangements made for repaying money borrowed for expenditure in connection with the provision of the houses, be of an amount equivalent to the amount specified in that paragraph for a less period than the period therein specified for the payment of the contribution ;

the provisions of that paragraph shall have effect in the case of that authority subject to such modifications as the Minister may determine.

NOTES TO EIGHTH SCHEDULE.

General Note.—This Schedule reproduces Part III of the Fourth Schedule to the Act of 1935 and s. 34 (2) of that Act repealed by s. 190 and the Twelfth Schedule.

This Schedule sets out the contributions which local authorities are required to credit to the Housing Revenue Account (see s. 129 (1)) under s. 114, p. 246, *ante*. For annual rate fund contributions to be credited to the Housing Revenue Account under the Housing (Financial Provisions) Act, 1938, see ss. 6 and 7 of that Act, p. 393, *post*; and for rate fund contributions under the Housing (Financial and Miscellaneous Provisions) Act, 1946, see ss. 5 to 8 of that Act, pp. 433 *et seq.*, *post*.

(a) **Contribution under s. 7 of the Act of 1919.**—For the text of s. 7, see notes to s. 111, p. 242, *ante*. This paragraph provides that during the remainder of the period during which loan charges are payable for loans incurred for the purpose of a scheme under this section the local authority shall contribute annually:

- (1) An amount equal to the produce of a penny rate (ascertained in accordance with the provisions of paragraph 8 of the Seventh Schedule, and
- (2) the amount of any loan charges for that year in respect of borrowed capital not approved by the Minister for the purposes of an Exchequer contribution.

(b) **Contribution under s. 1 (1) (b) of the Act of 1923 as originally enacted.**—As so enacted this paragraph provided—

“(b) Where the local authority satisfy the Minister that the needs of their area can more appropriately be met by the provision of such houses wholly or partly by the authority themselves, towards any expenses incurred by the authority in making such provision.”

In respect of houses erected under this section the authority are liable to contribute during the remainder of the period of twenty years from the completion of the house,

- (1) an amount equal to the amount of the Exchequer contribution in respect of each house; or
- (2) an amount equal to the average annual amount contributed out of the general rate fund during the five financial years ending March 31, 1935.

Contributions under the Act of 1923 were not made subject to special conditions as to the rents charged for houses in respect of which a contribution was paid.

Note that the provisions of para. 9 are applicable to the provisions of this paragraph.

(c) **Contributions under s. 1 (3) of the Act of 1923.**—This sub-section was repealed by s. 26 (5) and Sixth Schedule to the Act of 1930, but the repeal was not to affect any liability of the Minister to pay any contributions which he had undertaken to pay before the commencement of the 1930 Act.

In respect of schemes under this sub-section the local authority must contribute each year,

- (1) an amount equal to the amount of the Exchequer contributions for that year; and
- (2) the amount of loan charges in respect of borrowed capital not approved by the Minister.

(d) **Paragraph 6.**—This paragraph provides for contributions by the local authority in respect of houses and flats towards which the Minister makes a grant under ss. 106, 107 and 108, pp. 237, *ante*. Such contributions are to be spread over a period of 60 years.

The contribution payable by the authority is equivalent to the following:

- (i) In the case of a flat in respect of which a contribution is payable by the Minister under s. 106 a sum equal to one-half the Minister's contribution provided annually for a period of forty years.
- (ii) In the case of a house or flat in respect of which a contribution is payable by the Minister under s. 107 a sum equal to one-half of the Minister's contribution provided annually for whatever period the Minister's contribution is payable.

- (iii) In the case of a house provided for members of the agricultural population in respect of which the Minister makes a contribution a sum of one pound provided annually for a period of forty years.

(c) **Paragraph 7.**—Section 39 of the 1935 Act requires the local authority to make an annual contribution of the same amount and for the same period as the Minister's contribution which is payable under s. 4 of the Housing (Rural Workers) Act, 1926, as amended by s. 38 (2) of the Act of 1935 in respect of the reconditioning of houses of which the local authority are, or become the owners. The Housing (Rural Workers) Acts, 1926 to 1942, expired on September 30, 1945.

(f) **"Additional contributions."**—Such a contribution will only be necessary if the Housing Revenue Account in any year shows a deficit. See s. 129, p. 258, *ante*.

NINTH SCHEDULE.

(Section 122.)

LOCAL HOUSING BONDS.

1. Local bonds shall—

- (a) be secured upon all the rates, property and revenues of the local authority ;
- (b) bear interest at such rate as the local authority may determine at the time of the issue of the bonds ;
- (c) be issued in denominations of five, ten, twenty, fifty, and one hundred pounds and multiples of hundred pounds ;
- (d) be issued for periods of not less than five years.

2. Local bonds shall be exempt from stamp duty under the Stamp Act, 1891, and no duty shall be chargeable under section eight of the Finance Act, 1899, as amended by any subsequent enactment in respect of the issue of any such bonds.

3. The provisions of section one hundred and fifteen of the Stamp Act, 1891 (which relates to composition for stamp duty) shall, with the necessary adaptations, apply in the case of any local authority by whom local bonds are issued as if those bonds were stock or funded debt of the authority within the meaning of that section.

4. A local authority shall, in the case of any person who is the registered holder of local bonds issued by that authority of a nominal amount not exceeding in the aggregate one hundred pounds, pay the interest on the bonds held by that person without deduction of income tax, but any such interest shall be accounted for and charged to income tax under the third case of Schedule D, subject, however, to any provision of the enactments relating to income tax with respect to exemption or abatement.

5. Local bonds issued by a local authority shall be accepted by that authority at their nominal value in payment of the purchase price of any house erected by or on behalf of any local authority in pursuance of operations under this Act.

6. The Minister may, with the approval of the Treasury, make regulations (a) with respect to the issue (including terms of issue), transfer and redemption of local bonds and the security therefor, and any such regulations may apply, with or without modifications, any provisions of the Local Loans Act, 1875, and the Acts amending that Act, and of any Act relating to securities issued by the London County Council or by any other local or public body.

7. For the purposes of this Schedule the expression "local authority" includes a county council.

NOTES TO NINTH SCHEDULE.

This Schedule reproduces the Fourth Schedule to the Housing Act, 1925, as amended by the Sixth Schedule to the Housing Act, 1935.

(a) **Regulations made by the Minister.**—See Part III, Housing Consolidated Regulations, p. 481, *post*. See also Local Authorities Loans Act, 1945, and the Treasury Regulations thereunder; and general note to s. 118, p. 251, *ante*.

TENTH SCHEDULE.

(Section 134.)

MODIFICATION AS TO LONDON OF FINANCIAL PROVISIONS.

1.—(1) The London County Council shall pay to the council of a metropolitan borough for each financial year an amount equal to any loss which may be incurred for that year by the metropolitan borough council in carrying out a scheme under the Act of 1919;

(2) For the purposes of the foregoing sub-paragraph the loss for any year shall be the amount by which the estimated expenditure for that year in respect of the scheme exceeds the estimated income for that year, and that expenditure and income shall be ascertained in accordance with the provisions of paragraphs 4 to 7 of the Seventh Schedule to this Act;

(3) Notwithstanding anything in any enactment, no Exchequer contribution shall be payable to a metropolitan borough council under section seven of the Act of 1919, but the amount of the Exchequer contribution payable to the London County Council for any financial year in respect of schemes under the Act of 1919 shall be the amount, if any, by which the aggregate of, first, the estimated loss for that year in respect of the carrying out of any such scheme by the London County Council (ascertained as provided by paragraphs 3 to 7 of the Seventh Schedule to this Act) and, secondly, the amount of the sums payable by the London County Council to metropolitan borough councils under this paragraph for that year, exceeds an amount equal to the produce of a rate of one penny in the pound for that year levied in the administrative county of London other than the city of London (ascertained as provided by paragraph 8 of the Seventh Schedule to this Act).

2. For the purposes of the application to a metropolitan borough council of the provisions of Part VI relating to the contributions to be made by a local authority out of the general rate fund, the following paragraph shall be substituted for paragraph 1 of the Eighth Schedule to this Act :—

"1. In respect of a scheme under the Act of 1919, carried out by the local authority, a contribution for each financial year during the remainder of the period during which loan charges in respect of money borrowed for the purposes of the scheme are payable, of the amount of any loan charges for that year in respect of money borrowed for expenditure in connection with the scheme which was not approved by the Minister for the purposes of the determination of the Exchequer contribution."

3. For the purposes of the application to the Common Council of the City of London, to the London County Council and to a metropolitan borough council, of the provisions of Part VI of this Act relating to the contributions to be made by a local authority out of the general rate fund, the provisions of paragraphs 4 and 5 of the Eighth Schedule to this Act relating to the determination of the amount of such contributions in a case where the county council make a contribution shall not have effect, but where a contribution is made to the Common Council of the City of London, to the London County Council or to a metropolitan borough council for any year under any of the enactments referred to in subparagraphs (b) and (c) of the next succeeding paragraph in relation to any scheme or house referred to in the Eighth Schedule to this Act the amount of the contribution to be made by that council for that year in respect of that scheme or house shall be reduced by the amount of the contribution so made.

4. The Common Council of the City of London and a metropolitan borough council who are required to keep a Housing Revenue Account shall carry to the credit of the account, in addition to the amounts in respect of incomings for any year which they are required by section one hundred and twenty-nine of this Act to carry to the credit of that account—

- (a) an amount equal to the aggregate amount of any payments made to them for that year by the London County Council in respect of loss incurred by them in carrying out a scheme under the Act of 1919;
- (b) an amount equal to the aggregate amount of any supplementary contributions made to them for that year by the London County Council under subsection (6) of section one of the Act of 1923, or under subsection (5) of section two of the Act of 1924;
- (c) an amount equal to the aggregate amount of any contributions, towards expenses incurred by them in relation to matters in respect of which the Housing Revenue Account is kept, made to them for that year by the London County Council or otherwise under proviso (a) to section thirty-three, section seventy or section one hundred and eighty-one of this Act.

5. The London County Council shall debit to their Housing Revenue Account, in addition to the amounts in respect of outgoings for any year which they are required by section one hundred and twenty-nine of this Act to debit to that account, an amount equal to the aggregate amount of any payments made by them for that year in respect of losses incurred by metropolitan borough councils in carrying out schemes under the Act of 1919.

6. For references in this Act to the general rate fund of a local authority there shall be substituted, in relation to the London County Council, references to the county fund.

NOTES TO TENTH SCHEDULE.

This Schedule reproduces Part IV of the Fourth Schedule to the Housing Act, 1935.

See notes to s. 134, p. 266, *ante*. See also s. 129 (notes) for sums to be credited to the Housing Revenue Account under the Housing (Financial Provisions) Act, 1938, p. 385, *post*, and the Housing (Financial and Miscellaneous Provisions) Act, 1946, p. 427, *post*.

ELEVENTH SCHEDULE.

(Sections 28, 137.)

RE-HOUSING BY UNDERTAKERS IN CASE OF DISPLACEMENT OF PERSONS OF THE WORKING CLASSES.

1. If in the administrative county of London or in any borough or urban district, or in any parish in a rural district, the undertakers (*a*) have power to take under the enabling Act (*b*) working-men's dwellings (*c*) occupied by thirty or more persons belonging to the working class (*d*), the undertakers shall not enter on any such dwellings in that county, borough, urban district, or parish, until the Minister has either approved of a housing scheme under this schedule or has decided that such a scheme is not necessary.

For the purposes of this schedule, a house shall be considered a working-man's dwelling if wholly or partially occupied by a person belonging to the working classes, and for the purpose of determining whether a house is a working-man's dwelling or not, and also for determining the number of persons belonging to the working classes by whom any houses are occupied, any occupation on or after the fifteenth day of December next before the passing of the enabling Act, or, in the case of land acquired compulsorily under a general Act without the authority of an order, next before the date of the application to the Minister under this schedule, for his approval of or decision with respect to a housing scheme, shall be taken into consideration.

2. The housing scheme shall make provision for the accommodation of such number of persons of the working class as is, in the opinion of the Minister, taking into account all the circumstances, required, but that number shall not exceed the aggregate number of persons of the working class displaced; and in calculating that number the Minister shall take into consideration not only the persons of the working class who are occupying the working-men's dwellings which the undertakers have power to take, but also any persons of the working class who, in the opinion of the Minister, have been displaced within the previous five years in view of the acquisition of land by the undertakers.

3. Provision may be made by the housing scheme for giving undertakers who are a local authority, or who have not sufficient powers for the purpose, power for the purpose of the scheme to appropriate land or to acquire land, either by agreement or compulsorily under the authority of a Provisional Order, and for giving any local authority power to erect dwellings on land so appropriated or acquired by them, and to sell or dispose of any such dwellings, and to raise money for the purpose of the scheme as for the purposes of Part V of this Act, and for regulating the application of any money arising from the sale or disposal of the dwellings; and any provisions so made shall have effect as if they had been enacted in an Act of Parliament.

4. The housing scheme shall provide that any lands acquired under the scheme shall, for a period of twenty-five years from the date of the scheme, be appropriated for the purpose of dwellings for persons of the working class, except so far as the Minister may dispense with such appropriation; and every conveyance, demise, or lease of any such land shall be endorsed with notice of this provision, and the Minister may require the insertion in the scheme of any provisions requiring a certain standard of house to be erected under the scheme, or any conditions to be complied with as to the mode in which the houses are to be erected.

5. If the Minister does not hold a local inquiry with reference to a housing scheme, he shall, before approving the scheme, send a copy of the draft scheme to every local authority, and shall consider any representation by any such authority made within the time fixed by him.

6. The Minister may, as a condition of his approval of a housing scheme, require that the new dwellings under the scheme, or some part of them, shall be completed and fit for occupation before possession is taken of any working-men's dwellings under the enabling Act.

7. Before approving any scheme the Minister may, if he thinks fit, require the undertakers to give such security as the Minister considers proper for carrying the scheme into effect.

8. If the undertakers enter on any working-men's dwellings in contravention of the provisions of this schedule, or of any conditions of approval of the housing scheme made by the Minister, they shall be liable to a penalty not exceeding five hundred pounds in respect of every such dwelling.

Any such penalty shall be recoverable by the Minister by action in the High Court, and shall be carried to and form part of the Consolidated Fund.

9. If the undertakers fail to carry out any provision of the housing scheme, the Minister may make such order as he may think necessary or proper for the purpose of compelling them to carry out that provision, and any such order may be enforced by mandamus.

10. The Minister may, on the application of the undertakers, modify any housing scheme which has been approved by him under this schedule, and any modifications so made shall take effect as part of the scheme.

II. For the purposes of this schedule—

- (a) The expression "undertakers" means any authority, company, or person who are acquiring land compulsorily or by agreement under any local Act or Provisional Order or order having the effect of an Act, or are acquiring land compulsorily under any general Act ;
- (b) The expression "enabling Act" means any Act of Parliament or Order under which the land is acquired ;
- (c) The expression "local authority" means, as respects England and Wales other than the administrative county of London, the council of any county, borough, urban district or rural district, as respects the City of London, the Common Council, and, as respects the administrative county of London other than the City of London, the council of any metropolitan borough, in which in any case any houses in respect of which the re-housing scheme is made are situated ;
- (d) The expression "dwelling" or "house" means any house or part of a house occupied as a separate dwelling ;
- (e) The expression "working class" includes mechanics, artisans, labourers, and others working for wages, hawkers, costermongers, persons not working for wages, but working at some trade or handicraft without employing others, except members of their own family, and persons other than domestic servants whose income in any case does not exceed an average of three pounds a week, and the families of any of such persons who may be residing with them.

NOTES TO ELEVENTH SCHEDULE.

This Schedule reproduces the Fifth Schedule to the Act of 1925. Under s. 30 of the Town and Country Planning Act, 1944 (37 Halsbury's Statutes 459), acquisitions under Part I of that Act are not subject to the provisions of s. 137 and this Schedule.

(a) "**Undertakers.**"—For definition, see para. 11.

(b) "**The enabling Act.**"—For definition, see para. 11.

(c) "**Dwellings.**"—For definition, see para. 11.

(d) "**Working class.**"—For definition, see para. 11. It must be noted that this is the only definition of the term contained in the Act, but as it is a definition solely for the purposes of this Schedule it is not of much service in determining the meaning of the term for the purposes of the Act generally. Parliament has, in fact, deliberately avoided a definition, apparently in order to give the provisions of the Act the greatest measure possible of elasticity.

TWELFTH SCHEDULE.

(Section 190)

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
9 Edw. 7. c. 44.	The Housing, Town Planning &c. Act, 1909.	In section seventy-one the words "and the housing of the working classes" in both places where those words occur.
9 & 10 Geo. 5. c. 35.	The Housing, Town Planning &c. Act, 1919.	Subsection (4) of section twenty-four and section thirty-six.
14 & 15 Geo. 5. c. 35.	The Housing (Financial Provisions) Act, 1924.	Section eight.
15 Geo. 5. c. 14.	The Housing Act, 1925.	The whole Act.
16 & 17 Geo. 5. c. xcvi.	The London County Council (General Powers) Act, 1926.	Section thirty-eight.
17 & 18 Geo. 5. c. xxii.	The London County Council (General Powers) Act, 1927.	Section sixty.
18 & 19 Geo. 5. c. lxxvii.	The London County Council (General Powers) Act, 1928.	Section fifty-four.
19 & 20 Geo. 5. c. lxxxvii.	The London County Council (General Powers) Act, 1929.	Section fifty-six.
20 & 21 Geo. 5. c. 39.	The Housing Act, 1930.	The whole Act, except subsection (5) of section twenty-six and sections twenty-seven, forty-three, forty-four, forty-six, sixty-four and sixty-five.

Session and Chapter.	Short Title.	Extent of Repeal.
22 & 23 Geo. 5. c. lxx.	The London County Council (General Powers) Act, 1932.	Section thirteen.
23 & 24 Geo. 5. c. 15	The Housing (Financial Provisions) Act, 1933.	Section two.
25 & 26 Geo. 5. c. 40.	The Housing Act, 1935.	The whole Act, except subsection (6) of section twenty-seven, sections thirty-seven to thirty-nine, subsection (2) of section sixty-two, and sections ninety-two and one hundred.

HOUSING ACT, 1936

TABLE OF REPEALS AND REPLACEMENTS

[*Note.* The following table shows the sections and enactments repealed by s. 190 and Sched. XII of the Housing Act, 1936, together with the sections of the Act replacing them.

In the case of the three main statutes of 1925, 1930 and 1935, the repeal effected by the Act of 1936 is shown immediately after the title and regnal year; readers are thus enabled to see at a glance what sections if any are still in force.

Beneath are listed all sections which were in force prior to the passing of the 1935 Act, and repealed by that Act or the consolidating Act of 1936, together with the replacing section of the consolidating Act. No attempt is made to link up with the 1936 Act sections of the 1925 or 1930 Acts repealed before 1935.]

ACT	H.A.	ACT	H.A.
	SECTION		SECTION
Housing, Town Planning, etc., Act, 1909 (9 Edw. 7, c. 44)		1925 (15 Geo. 5, c. 14)— <i>cont.</i>	
s. 71 (part rep.)	153	s. 63	74 (1), 104 (1)
Housing, Town Planning, etc., Act, 1919 (9 & 10 Geo. 5, c. 35)		64	74 (1), 75
s. 24 (4)	139	65	76
36	149	66	99 (1)
Housing (Financial Provisions) Act, 1924 (14 & 15 Geo. 5, c. 35)		67	83 (1)
s. 8	82	68	84
Housing Act, 1925 (15 Geo. 5, c. 14)—whole Act rep.		69	83 (2)
s. 1	2	70	93
2	3	71	98
5	4	72	97
6	6, 8	78	100
7	7	79	101
8	5	80	1, 103, 181
16	20 (1)—(5)	81	116 (1),
17	22		117 (1)
18	12 (2)	83	91 (6), 93
27	20 (5)—(7)		(4), 116
29	19 (1), 161		(2), 117
30	162		(2)
31	19 (2)	84	118, 119
32	21	85	120
41	43	86	121
46	40, Sched. IV	87	122
53	162	89	123
57	72, 102, 104 (2)	90	92
58	73, 74 (2)	91	90
59	79, 127	92	91, 103 (2)
62	81 (1)	93	125
		94	124
		95 (<i>See now L. G. A., 1933, s. 219, & H. A., ss. 128—133</i>)	
		96	127
		97	126
		98	137
		99	138

ACT	H.A.	ACT	H.A.
	SECTION		SECTION
1925 (15 Geo. 5, c. 14)— <i>cont.</i>		Housing Act, 1930 (20 & 21 Geo. 5, c. 39)—whole Act rep. except ss. 26 (5), 27, 43, 44, 46, 64, 65	
s. 100	140	s. 1	25
101	141	2	13, 26
102	163	3	27
103	143	4	28
104	144	5	30, 127
105	142 (2)	6	32 (1), (5), 127
106	145	7	
107	80	8	38, 127
108	78	9	45 (1)
109	81 (2)—(4)	10	29, 32, 33
110	143	11	16 (3), 26, 29, 32
111	153, 184		(4), 33
112	151		(4), 74, Sched. II
113			40, Sched. IV
114	150		46 (1), (3)
116	178, 186		47
117	179	12	1 (1)
118	180	13	1 (2), 33, 39, 48, 162 (4), 181
119	166	14	9
120	164	15	10
121	167	16	11
122	176		12
123	158		13, 14, 156
124	159		15
125	185		16
126			1, 24, 56, 162 (4)
127	157		1, 71
129	146	17	105
130	154 (1), 183	18	109
	147	19	94
131	99 (2), (3)	20	
132	77	21	1 (2), 103 (3), 105 (10)
133	187	22	88
134	188	23	89
135	189	24	115
136	191	25	169
137	Sched. IX	26 (part rep.)	170
Sched. IV	Sched. XI	28	136
Sched. V		29	142 (1)
Sched. VI		30	155
London County Council (General Powers) Act, 1926 (16 & 17 Geo. 5, c. xcviij)		31	160
s. 38	103 (4) (d)		18, 44
London County Council (General Powers) Act, 1927 (17 & 18 Geo. 5, c. xxii)			163
s. 60	80 (3)		111, Sched. VII
London County Council (General Powers) Act, 1928 (18 & 19 Geo. 5, c. lxxvii)			91
s. 54	91 (1) (b)		182
London County Council (General Powers) Act, 1929 (19 & 20 Geo. 5, c. lxxxvii)			117 (2)
s. 56			74, Sched. II
			154, 188

ACT	H.A.	ACT	H.A.
	SECTION		SECTION
1930 (20 & 21 Geo 5, c. 39)— <i>cont.</i>		1935 (25 & 26 Geo. 5, c. 40) <i>—cont.</i>	
s. 52	171	s. 20	72 (1), 73
53	172		(b), 79(4)
54	173	21	1, 37, 69
55	113	22	70, 181 (1)
56	174	23	113
57	176 (1)	24	135
58	177	25	87
59	156	26	188
60	105 (7)— (9)	27 (part rep.)	94
61		28	95
62	188	29	92, 93
63		30	96
65 (not rep.)	191	31	106
Sched. I	Sched. III	32	107
Sched. II	Sched. I	33	108
Sched. III	40, Sched. IV	34	114, 115
Sched. IV			(3), Sched. VIII
Sched. V		35	105
Sched. VI		36	109
		40	111, 188
		41	114
London County Council (General Powers) Act, 1932 (22 & 23 Geo. 5, c. lxx) s. 13	33	42	128
		43	129
		44	130
		45	131
		46	132
		47	133
		48	112
		49	113, 115
			(5)
Housing (Financial Pro- visions) Act, 1933 (23 & 24 Geo. 5, c. 15) s. 2	110	50	134
		51	85(1)—(7)
		52	85 (8)
		53	86
		54	50
		55	51
		56	52
		57	1, 53
		58	54 (3)
		59	1, 54, 56
		60	55
		61	55 (5), 155, 156, 160
			40, Sched. III
		62 (part rep.)	
			41
		s. 63	42
		64	31
		65	30, 127
		66	28
		67	6, 8, 189
		68	(4)
			72
		69	74 (2)
		70	79 (5)
		71	75
		72	74 (3)
		73	103 (4)
		74	123
		75	91
		76	94 (5)
		77	
Housing Act, 1935 (25 & 26 Geo. 5, c. 40)—whole Act rep. except ss. 27 (6), 37— 39, 62 (2), 92, 100			
s. 1	57		
2	58		
3	59		
4	60		
5	61		
6	62, 157		
7	63		
8	64		
9	65		
10	66		
11	67		
12	68		
13	34		
14	35		
15	36		
16	35 (7), 36 (4), 43, 46, 47, 145, Sched. II		
	36(3), 40, Scheds. I, IV		
17			
18	45 (2)		
19	189 (3)		

ACT	H.A.	ACT	H.A.
1935 (25 & 26 Geo. 5, c. 40)		1935 (25 & 26 Geo. 5, c. 40)	
<i>cont.—</i>		<i>—cont.</i>	
s. 78	148	s. 94	72 (3)
79	11 (4), 167	95	152
80	23, 26 (8)	96	117
81	46 (2)	97	68, 138
82	17, 26 (7)	98	
83	11 (2), 15	99	
	(2)	Sched. I	Sched. V
84	12, 15 (1)	Sched. II	Scheds. I,
85	175		II
86	158	Sched. III	Sched. VI
87	160	Sched. IV	188,
88	44		Scheds.
89	Sched. I,		VII, VIII,
	2 (d)		X
90	Sched. IV	Sched. V	
91	46 (3), 49	Sched. VI	
93	165	Sched. VII	

PART III

OTHER HOUSING ENACTMENTS

SUMMARY.

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THE SMALL DWELLINGS ACQUISITION ACT, 1899

[62 & 63 Vict., Ch. 44.]

An Act to empower Local Authorities to advance Money for enabling Persons to acquire the Ownership of Small Houses in which they reside. [9th August, 1899.]

NOTES

The object of this statute is to provide facilities for acquiring dwellings by advancing a proportion of the cost to residents or those proposing to build. It is entirely permissive, no landlord being obliged to sell, nor any local authority absolutely compelled to advance money towards the purchase of any particular house or class of houses. The Act has been amended by s. 22 of the Housing, etc., Act, 1923, p. 378, *post*, and by s. 92 of the Housing Act, 1935, p. 384, *post*, which is itself amended by s. 6 of the Building Materials and Housing Act, 1945, p. 419, *post*. By s. 52 (4) of the Housing, Town Planning, etc., Act, 1919, p. 376, *post*, this Act and Part III of the Housing, Town Planning, etc., Act, 1919, may be cited together as the Small Dwellings Acquisition Acts, 1899 and 1919, and by s. 25 (6) of the Housing, etc., Act, 1923, p. 379, *post*, the above enactments together with Part III of the 1923 Act may be cited together as the Small Dwellings Acquisition Acts, 1899 to 1923. By s. 9 and Schedule IX of the Law of Property (Amendment) Act, 1924 (15 Halsbury's Statutes 169, 173), it is provided that the Act is to take effect as if the modes of effecting mortgages prescribed by the Act were by charge by way of legal mortgage or by demise or sub-demise but without prejudice to any statutory power to effect mortgages by deposit of documents.

Local Authorities who may make advances.—Local authorities who may make advances under this Act are :

- (i) the council of any county ;
- (ii) the council of any county borough ;
- (iii) the council of any urban or rural district (provided that they first pass a resolution undertaking to act under this Act and subject in the case of the council of a district containing a population according to the last census for the time being of less than ten thousand to the consent of the county council) to the exclusion of any other authority (s. 9).

Persons to whom advances may be made.—An advance may be made to a person who is both the occupier of and resident in any house the market value of which does not exceed £1500 for the purpose of enabling him to acquire the ownership of that house (ss. 1 (1), 10 (1), pp. 363, 371, *post*). As to the meaning of ownership, see s. 10 (2) and (3). By s. 7 of the Act an advance may be made to a person intending to reside in a house before residence has been taken up, upon the applicant giving an undertaking that he will begin to reside therein within a fixed period not exceeding six months from the date of the advance.

An advance may also be made to a person intending to construct a house, and in such a case the requirement as to residence is to be construed as requiring that the person should be a person intending to reside in the house when constructed (Housing, etc., Act, 1923, s. 22 (a), p. 378, *post*).

Amount of the advance.—The sum advanced must not exceed 90 per cent. of the market value of the house (s. 1 (1) of this Act and the Housing, etc., Act, 1923, s. 22 (d), pp. 363, 379, *post*).

Market value, how ascertained.—The market value of the ownership of any house in respect of which an advance is to be made is to be ascertained by means of a valuation duly made on behalf of the local authority (Housing, etc., Act, 1923, s. 22 (d)). Where an advance is made in respect of a house in the course of construction, the advance may be made by instalments from time to time as the building of the house progresses, so that the total advance does not at any time before the completion of the house exceed 50 per cent. of the value of the work done up to that time on the construction of the house including the value of the interest of the person to whom the advance is made, in the site thereof (Housing, etc., Act, 1923, s. 22 (e)).

Matters on which Local Authority must be satisfied before making an advance (see s. 2) :—

- (a) that the applicant is resident or intends to reside in the house, [or intends to reside in the house when constructed (Housing, etc., Act, 1923, s. 22 (a), p. 378, *post*)]; *and*
- (b) that the value of the ownership of the house is sufficient (as to this see s. 10 (2), p. 371, *post*); *and*
- (c) that the title to the ownership is one which an ordinary mortgagee would be willing to accept; *and*
- (d) that the house is in a good sanitary condition and good repair (this condition cannot be fully complied with before an advance is made in respect of a house under construction; but see the Housing, etc., Act, 1923, s. 22 (e)); *and*
- (e) that the repayment to the local authority of the advance is secured by an instrument vesting the ownership (including any interest already held by the purchaser) in the local authority subject to the right of redemption by the applicant, but such instrument must not contain anything inconsistent with the provisions of this Act.

Repayment of money advanced.—The repayment may be made either by equal instalments, or by an annuity of principal and interest combined, and all payments on account of principal or interest must be made either weekly or at periods not exceeding half a year as may be agreed (s. 1 (4)).

The proprietor of a house in respect of which an advance has been made may at any of the usual quarter days, after one month's written notice, and on paying all sums due on account of interest, repay to the local authority *the whole of the outstanding principal of the advance*, or any part thereof being ten pounds or a multiple of ten pounds, and where the repayment is made by an annuity of principal and interest combined, the amount so outstanding and the amount by which the annuity will be reduced where a part of the advance is paid off, shall be determined by a table annexed to the instrument securing repayment of the advance (s. 1 (5)). For a form of receipt under seal to be endorsed on a mortgage for money advanced, and for the effect of such an endorsed receipt, see the Housing, Town Planning, etc., Act, 1919, s. 49 (d) and the Fourth Schedule; 13 Halsbury's Statutes 961, 962.

Rate of interest on advances.—The rate of interest on advances under s. 1 made after the 1st July 1921 is to be such rate as the Minister of Health may, with the approval of the Treasury, from time to time by order fix, and different rates of interest may be fixed for different purposes and in different cases (Housing Act, 1921, s. 5, p. 377, *post*). For the latest order, inquire at the Ministry of Health. The Minister has also made a number of orders fixing varying rates, which are, however, only of local effect.

Statutory conditions subject to which house is held (see s. 3) :—

- (a) Every sum for the time being due in respect of principal or of interest shall be punctually paid;

- (b) The proprietor of the house shall reside in the house (see, however, s. 7) ;
- (c) The house shall be kept insured against fire to the satisfaction of the local authority, and the receipts for the premiums produced when required by them ;
- (d) The house shall be kept in good sanitary condition and good repair ;
- (e) The house shall not be used for the sale of intoxicating liquors, or in such a manner as to be a nuisance to adjacent houses ;
- (f) The local authority shall have power to enter the house by any persons authorised by them in writing for the purpose of ascertaining whether the statutory conditions are complied with.

These statutory conditions must be registered as a local land charge under Part IV of the register (see s. 15 of the Land Charges Act, 1925 ; 15 Halsbury's Statutes 538).

Default in complying with statutory conditions.—Where default is made in complying with the statutory condition as to residence, the local authority may take possession of the house (see s. 3 (3), p. 365, *post*). It should be noted, however, that the statutory condition as to residence is temporary only and may be dispensed with by the local authority at any time (Housing, etc., Act, 1923, s. 22 (c), p. 378, *post*). See also the provisions as to letting contained in s. 7.

Where default is made in complying with any of the other statutory conditions, whether the statutory condition as to residence has or has not been complied with, the local authority may either take possession of the house under s. 5 or order the sale of the house without taking possession under s. 6 (see s. 3 (3)).

In the case of the breach of any condition other than that of punctual payment of the principal and interest the local authority must previously to taking possession or ordering a sale deliver a notice to the proprietor calling on him to comply with the conditions, and if the proprietor—

- (a) within fourteen days after the delivery of the notice gives an undertaking in writing to the authority to comply with the notice ; *and*
 - (b) within two months after the delivery of the notice complies therewith,
- the local authority shall not take possession or order a sale as the case may be (s. 3, sub-s. (4)).

Bankruptcy of proprietor of house.—In the case of the bankruptcy of the proprietor of the house, or in the case of a deceased proprietor's estate being administered in bankruptcy under s. 125 of the Bankruptcy Act, 1883 (see now Bankruptcy Act, 1914, s. 130 ; 1 Halsbury's Statutes 689), the local authority may either take possession of the house, or order the sale of the house without taking possession, and *must* do so except in pursuance of some arrangement to the contrary with the trustee in bankruptcy (s. 3 (5)). If an arrangement is made the condition as to residence may be suspended (s. 7 (3), p. 368, *post*).

Death of proprietor of house.—Where the proprietor of a house dies, the condition requiring residence shall be suspended until the expiration of twelve months from the death, or any earlier date at which the personal representatives transfer the ownership or interest of the proprietor in the course of administration (s. 7 (3)). By s. 22 (c) of the Housing, etc., Act, 1923, the condition as to residence may be dispensed with by the local authority at any time.

Permission to assign.—The proprietor of the house may with the permission of the local authority (which shall not be unreasonably withheld) at any time transfer his interest in the house, but any such transfer shall be made subject to the statutory conditions (s. 3 (2)). Permission is unnecessary for charges not affecting the rights or powers of the local authority under this Act (s. 4 (2)).

Permission to let.—The local authority may allow a proprietor to permit, by letting or otherwise, a house to be occupied as a furnished house by

some other person during a period not exceeding four months in the whole in any twelve months, or during absence from the house in the performance of any duty arising from or incidental to any office, service or employment held or undertaken by him, and the condition requiring residence shall be suspended while the permission continues (s. 7 (2)). See now the provision contained in the Housing, etc., Act, 1923, s. 22 (c), p. 378, *post*.

Recovery of possession by Local Authority.—Where a local authority take possession of a house, all the estate, right, interest, and claim of the proprietor in or to the house vest in and become the property of the local authority, who may either retain the house under their own management or sell or otherwise dispose of it as they think expedient (s. 5 (1), and see s. 5 (5) (p. 367, *post*) for mode of recovering possession).

Payments to proprietor on Local Authority recovering possession of house.—Where a local authority take possession of a house they must, save as hereinafter mentioned, pay to the proprietor either—

- (a) such sum as may be agreed upon ; *or*
- (b) a sum equal to the value of the interest in the house at the disposal of the local authority, after deducting therefrom the amount of the advance then remaining unpaid and any sum due for interest ; and the said value in the absence of a sale and in default of agreement, is to be settled by a county court judge as arbitrator, or if the Lord Chancellor so authorise, by a single arbitrator appointed by the county court judge, and the Arbitration Act, 1889, will apply to any such arbitration (s. 5 (2)).

The sum so payable to the proprietor, if not paid within three months after the date of taking possession will carry interest at the rate of 3 per cent. per annum from the date of taking possession (s. 5 (3)).

All costs of or incidental to the taking possession, sale, or other disposal of the house incurred by the local authority, before the amount payable to the proprietor has been settled either by agreement or arbitration, must be deducted from the amount otherwise payable to the proprietor (s. 5 (4)).

Ordering sale without taking possession.—Where the local authority order the sale of a house without taking possession they must sell by auction, and out of the proceeds of the sale retain any sum due to them on account of the interest or principal of the advance, and all costs, charges and expenses properly incurred by them in or about the sale of the house, and pay over the balance (if any) to the proprietor (s. 6 (1)). If unable to sell the house by auction for such a sum as will allow of payment out of the proceeds of sale of principal and interest then due to the authority and the costs and charges incurred by them in attempting to sell the house, they may take possession but will not be liable to pay any sum to the proprietor (s. 6 (2)). Should a later sale result in a sum in excess of the amount owing on the mortgage and interest the local authority are not at liberty to make payment of the difference to the proprietor. The authority are trustees for the rate-payers. See *Re Brown's Mortgage. Wallasey Corpn. v. A.-G.*, [1945] Ch 166 ; [1945] 1 All E. R. 397 ; 109 J. P. 105.

List of advances to be kept by Local Authority.—The local authority must keep a book containing a list of advances and particulars relating to each advance (s. 8 (1)). The book must be open to inspection at the office of the local authority during office hours free of charge (s. 8 (2), p. 369, *post*).

For power of local authority to borrow for the purposes of the Act, see s. 9 (5), p. 370, *post*.

For the manner in which expenses are to be defrayed, see s. 9 (3).

For limits on expenditure, see s. 9 (4). The limits upon expenditure imposed by this sub-section had effect from the 1st April 1930 as if the rate poundage were increased by $33\frac{1}{3}$ per cent. or such higher percentage as the Minister of Health may by order in any special case allow (s. 75, Local Government Act, 1929 ; 10 Halsbury's Statutes 932).

For application to London, see s. 9 (10).

1. Power of local authority to advance money to residents in houses for the purchase of houses.—(1) A local authority for any area may, subject to the provisions of this Act, advance money to a resident in any house within the area for the purpose of enabling him to acquire the ownership of that house ; provided that *any advance shall not exceed—*

- (a) [*eighty-five per cent.*] *of that which in the opinion of the local authority is the market value of the ownership ;*
nor
- (b) *two hundred and forty pounds ; or, in the case of a fee simple or leasehold of not less than ninety-nine years unexpired at the date of the purchase, three hundred pounds ;*

and an advance shall not be made for the acquisition of the ownership of a house where in the opinion of the local authority the market value of the house exceeds [*fifteen*] hundred pounds.

(2) Every such advance shall be repaid with interest within such period not exceeding thirty years from the date of the advance as may be agreed upon.

(3) . . . (a)

(4) The repayment may be made either by equal instalments of principal or by an annuity of principal and interest combined, and all payments on account of principal or interest shall be made either weekly or at any periods not exceeding a half year, according as may be agreed.

(5) The proprietor of a house in respect of which an advance has been made may at any of the usual quarter days, after one month's written notice, and on paying all sums due on account of interest, repay to the local authority the whole of the outstanding principal of the advance (b), or any part thereof being ten pounds or a multiple of ten pounds, and where the repayment is made by an annuity of principal and interest combined, the amount so outstanding and the amount by which the annuity will be reduced where a part of the advance is paid off, shall be determined by a table annexed to the instrument securing the repayment of the advance (c).

NOTES TO SECTION ONE

Para. (b) of sub-s. (1) was repealed by s. 49 of the Housing, Town Planning, etc., Act, 1919, p. 375, *post*. By the same section 85 per cent. was substituted for four-fifths in para. (a). The words from "any advance shall not" to "the ownership nor" and the word "and" were repealed by Sched. II to Housing, etc. Act, 1923. See now s. 22 of that Act, p. 378, *post*, which raises the amount that may be advanced to an amount not exceeding ninety per cent. of the market value.

£800 was substituted for £400, as the limit on the market value of houses in respect of which advances may be made by s. 49 of the Housing, Town Planning, etc., Act, 1919, p. 375, *post*; and the amount was increased to £1200 by the Housing, etc., Act, 1923, s. 22, p. 378, *post*. This amount was reduced to £800 by s. 92 of the Housing Act, 1935, p. 384, *post*. It has been increased, in respect of any advance made after December 20, 1945, to £1,500 by s. 6 of the Building Materials and Housing Act, 1945, p. 419, *post*.

(a) This sub-section, which related to the rate of interest, was repealed by s. 11 (4) and Schedule to the Housing Act, 1921. As regards advances made after July 1st, 1921, s. 5 of the Housing Act, 1921 (p. 377, *post*), enacted that the rate of interest should be such rate as the Minister of Health might, with the approval of the Treasury, from time to time fix. For the latest order, inquire at the Ministry of Health.

(b) For a form of receipt to be endorsed on the mortgage for money advanced and the effect of such an endorsed receipt, see the Housing, Town Planning, etc., Act, 1919, s. 49 and Fourth Schedule, pp. 375, 376, *post*.

(c) No form is prescribed for this instrument; see, further, s. 2 (e), *infra*, and the provision in the Law of Property (Amendment) Act, 1924, referred to in the headnote to this Act.

2. Procedure for obtaining advance.—Before making an advance under this Act in respect of a house a local authority shall be satisfied—

- (a) that the applicant for the advance is resident or intends to reside in the house, and is not already the proprietor within the meaning of this Act of a house to which the statutory conditions apply; and
- (b) that the value of the ownership of the house is sufficient; and
- (c) that the title to the ownership is one which an ordinary mortgagee would be willing to accept; and
- (d) that the house is in good sanitary condition and good repair; and
- (e) that the repayment to the local authority of the advance is secured by an instrument vesting the ownership (including any interest already held by the purchaser) in the local authority subject to the right of redemption by the applicant, but such instrument shall not contain anything inconsistent with the provisions of this Act.

NOTE TO SECTION TWO

As to residence and ownership, see s. 10, p. 371, *post*; and see s. 22 (a) of the Housing, etc., Act, 1923, p. 378, *post*.

3. Conditions affecting house purchased by means of advance.—(1) Where the ownership of a house has been acquired by means of an advance under this Act, the house shall, until such advance with interest has been fully paid, or the local authority have taken possession or ordered

a sale under this Act, be held subject to the following conditions (in this Act referred to as the statutory conditions), that is to say :—

- (a) Every sum for the time being due in respect of principal or of interest of the advance shall be punctually paid :
 - (b) The proprietor of the house shall reside in the house :
 - (c) The house shall be kept insured against fire to the satisfaction of the local authority, and the receipts for the premiums produced when required by them :
 - (d) The house shall be kept in good sanitary condition and good repair :
 - (e) The house shall not be used for the sale of intoxicating liquors, or in such a manner as to be a nuisance to adjacent houses :
 - (f) The local authority shall have power to enter the house by any person, authorised by them in writing for the purpose, at all reasonable times for the purpose of ascertaining whether the statutory conditions are complied with.
- (2) The proprietor of the house may with the permission of the local authority (which shall not be unreasonably withheld) at any time transfer his interest in the house, but any such transfer shall be made subject to the statutory conditions.
- (3) Where default is made in complying with the statutory condition as to residence, the local authority may take possession of the house, and where default is made in complying with any of the other statutory conditions, whether the statutory condition as to residence has or has not been complied with, the local authority may either take possession of the house, or order the sale of the house without taking possession.
- (4) In the case of the breach of any condition other than that of punctual payment of the principal and interest of the advance, the authority shall, previously to taking possession or ordering a sale, by notice in writing delivered at the house and addressed to the proprietor, call on the proprietor to comply with the condition, and if the proprietor—
- (a) within fourteen days after the delivery of the notice gives an undertaking in writing to the authority to comply with the notice ; and
 - (b) within two months after the delivery of the notice complies therewith,
- shall not take possession or order a sale, as the case may be.

(5) In the case of the bankruptcy of the proprietor of the house, or in the case of a deceased proprietor's estate being administered in bankruptcy under section one hundred and twenty-five of the Bankruptcy Act, 1883, the local authority may either take possession of the house or order the sale of the house without taking possession, and shall do so except in pursuance of some arrangement to the contrary with the trustee in bankruptcy.

NOTES TO SECTION THREE

See s. 7, as to suspension of conditions of residence and the modifications in s. 22 of the Housing, etc., Act, 1923, p. 378, *post*. The statutory conditions should be registered as a local land charge under the Land Charges Act, 1925, s. 15; 15 Halsbury's Statutes 538.

The trustee in bankruptcy will become the proprietor for the purposes of the Act, see s. 38 of the Bankruptcy Act, 1914; 1 Halsbury's Statutes 643. Refer to s. 10 (3), p. 372, *post*. As to requiring insurance in a named office, see *Tredegar v. Harwood*, [1929] A. C. 72; Digest Supp.

4. Provision as to personal liability and powers of proprietor.—(1) Where the ownership of a house has been acquired by means of an advance under this Act, the person who is the proprietor shall be personally liable for the repayment of any sum due in respect of the advance until he ceases to be proprietor, by reason of a transfer made in accordance with this Act.

(2) The provisions of this Act requiring the permission of the local authority to the transfer of the proprietor's interest in a house under this Act shall not apply to any charge on that interest made by the proprietor, so far as the charge does not affect any rights or powers of the local authority under this Act.

5. Recovery of possession and disposal of house.—(1) Where a local authority take possession of a house, all the estate, right, interest, and claim of the proprietor in or to the house shall, subject as in this section mentioned, vest in and become the property of the local authority, and that authority may either retain the house under their own management or sell or otherwise dispose of it as they think expedient.

(2) Where a local authority take possession of a house they shall, save as hereinafter mentioned, pay to the proprietor either—

(a) such sum as may be agreed upon; or

(b) a sum equal to the value of the interest in the house at the disposal of the local authority, after deducting therefrom the amount of the advance then remaining

unpaid and any sum due for interest ; and the said value, in the absence of a sale and in default of agreement, shall be settled by a county court judge or arbitrator, or, if the Lord Chancellor so authorises, by a single arbitrator appointed by the county court judge, and the Arbitration Act, 1889, shall apply to any such arbitration.

(3) The sum so payable to the proprietor if not paid within three months after the date of taking possession shall carry interest at the rate of three per cent. per annum from the date of taking possession.

(4) All costs of or incidental to the taking possession, sale, or other disposal of the house (including the costs of the arbitration, if any) incurred by the local authority, before the amount payable to the proprietor has been settled either by agreement or arbitration, shall be deducted from the amount otherwise payable to the proprietor.

(5) Where the local authority are entitled under this Act to take possession of a house, possession may be recovered (whatever may be the value of the house) by or on behalf of the local authority either under sections one hundred and thirty-eight to one hundred and forty-five of the County Courts Act, 1888, or under the Small Tenements Recovery Act, 1838, as in the cases therein provided for, and in either case may be recovered as if the local authority were the landlord and the proprietor of the house were the tenant.

NOTE TO SECTION FIVE

Ss. 138-145 of the County Courts Act, 1888, provided for the recovery of small tenements in certain eventualities, but the sections were repealed by s. 34 (1) and Schedule V, Part I, County Courts (Amendment) Act, 1934 (27 Halsbury's Statutes 71, 76); the Small Tenements Recovery Act, 1838, (10 Halsbury's Statutes 324), authorises the issue of a warrant by justices for the recovery of possession within a period not less than twenty-one, nor more than thirty, clear days from the date of the warrant.

6. Procedure as to ordering sale.—(1) Where a local authority order the sale of a house without taking possession, they shall cause it to be put up for sale by auction, and out of the proceeds of sale retain any sum due to them on account of the interest or principal of the advance, and all costs, charges, and expenses properly incurred by them in or about the sale of the house, and pay over the balance (if any) to the proprietor.

(2) If the local authority are unable at the auction to sell the house for such a sum as will allow of the payment

out of the proceeds of sale of the interest and principal of the advance then due to the authority, and the costs, charges, and expenses aforesaid, they may take possession of the house in manner provided by this Act, but shall not be liable to pay any sum to the proprietor.

NOTE TO SECTION SIX

Where the reserve price was not reached, and the local authority retained possession to find later that they could sell for a sum in excess of the mortgage and interest: *Held* that the authority were not entitled to pay the excess to the widow of the owner but held the excess as trustee for the ratepayers (*Re Brown's Mortgage, Wallasey Corpn. v. A.-G.*, [1945] Ch. 166; [1945] 1 All E. R. 397; 109 J. P. 105).

7. Suspension of condition as to residence.—(1) An advance may be made to an applicant who intends to reside in a house, as if he were resident, if he undertakes to begin his residence therein within such period not exceeding six months from the date of the advance, as the local authority may fix, and in that case the statutory condition requiring residence shall be suspended during that period.

(2) The local authority may allow a proprietor to permit, by letting or otherwise, a house to be occupied as a furnished house by some other person during a period not exceeding four months in the whole in any twelve months, or during absence from the house in the performance of any duty arising from or incidental to any office, service, or employment held or undertaken by him, and the condition requiring residence shall be suspended while the permission continues.

(3) Where the proprietor of a house subject to statutory conditions dies, the condition requiring residence shall be suspended until the expiration of twelve months from the death, or any earlier date at which the personal representatives transfer the ownership or interest of the proprietor in the course of administration; and where the proprietor of any such house becomes bankrupt, or his estate is administered in bankruptcy under section one hundred and twenty-five of the Bankruptcy Act, 1883, and in either case an arrangement under this Act is made with the trustee in bankruptcy, the condition as to residence shall, if the local authority think fit, be suspended during the continuance of the arrangement.

NOTE TO SECTION SEVEN

See notes to s. 3, p. 364, *ante*. The Bankruptcy Act, 1883, s. 125, was repealed by the Bankruptcy Act, 1914, s. 168. See now s. 130 of that Act; 1 Halsbury's Statutes 689.

8. List of advances.—(1) A local authority shall keep at their offices a book containing a list of any advances made by them under this Act, and shall enter therein with regard to each advance—

- (i) a description of the house in respect of which the advance is made ;
- (ii) the amount advanced ;
- (iii) the amount for the time being repaid ;
- (iv) the name of the proprietor for the time being of the house ; and
- (v) such other particulars as the local authority think fit to enter.

(2) The book shall be open to inspection at the office of the local authority during office hours free of charge.

9. Local authorities and rates.—(1) A local authority for the purpose of this Act shall be the council of any county or county borough ; and if the council of any urban district not being a county borough, or of any rural district, pass a resolution undertaking to act under this Act, that council shall, subject in the case of the council of a district containing a population according to the last census for the time being of less than ten thousand to the consent of the county council, be the local authority in that district for the purpose of this Act to the exclusion of any other authority : Provided that, if the council of any district are dissatisfied with any refusal or failure of the county council to give their consent they may appeal to the Local Government Board, and the Local Government Board may, if they think fit, give their consent, and the consent so given shall have the same effect as the consent of the county council.

(2) Where the council of an urban or rural district becomes the local authority for the purposes of this Act, all the powers, rights, and liabilities of the county council in respect of advances already made by them under this Act for the purchase of the ownership of any house in the district shall vest in the council of the urban or rural district, subject to the payment by that council to the county council of the outstanding principal and interest of any such advance.

(3) *All expenses of a local authority in the execution of this Act shall be paid in the case of a county out of the county rate, and in the case of a county borough out of the borough fund or borough rate, and in the case of any urban or rural district out of any fund or rate applicable to the general*

purposes of the Public Health Acts ; but no sum shall be raised in any urban or rural district the council of which becomes a local authority for the purposes of this Act on account of the expenses of a county council under this Act.

(4) If in any local financial year the expenses payable by a council and not reimbursed by the receipts under this Act exceed in a county a sum equal to one halfpenny, and in a county borough or urban or rural district a sum equal to one penny in the pound upon the rateable value of the county, county borough, or district, deducting in the case of a county the rateable value of any urban or rural district in the county, the council of which have become a local authority under this Act, no further advance under this Act shall be made by that council, until the expiration of five years after the end of that financial year, or if those expenses at that date exceed one halfpenny or one penny in the pound, as the case may be, on the rateable value for the time being, until they fall below such sum.

(5) A local authority may borrow for the purposes of this Act *in like manner as they may borrow, in the case of a county council for the purposes of the Local Government Act, 1888, and in the case of the council of a county borough for the purpose of section one hundred and six of the Municipal Corporations Act, 1882, and in the case of an urban or rural district council for the purpose of the Public Health Acts, and those Acts shall apply accordingly with the necessary modifications.*

(6) Money borrowed under this Act shall not, in the case of a county council, be reckoned as part of the total debt of a county for the purposes of section sixty-nine, sub-section two, of the Local Government Act, 1888, and shall not, in the case of an urban rural district council, be reckoned as part of their debt for the purpose of the limitation on borrowing under section two hundred and thirty-four, sub-section two, of the Public Health Act, 1875.

(7) The Public Works Loan Commissioners may in manner provided by the Public Works Loans Act, 1875, lend any money which may be borrowed by a local authority for the purposes of this Act.

(8) Any capital money received or retained by a local authority in payment or discharge of any advance under this Act, or in respect of the sale or other disposal of any house taken possession of under this Act, shall be applied, with the sanction of the Local Government Board, either

in repayment of debt or for any other purpose to which capital money may be applied.

(9) Separate accounts shall be kept by every local authority of their receipts and expenditure under this Act.

(10) In the application of this Act to the county of London any sanitary authority—

(a) shall have the same powers as an urban district council, and the expenses of such authority shall be paid out of the general rate or in the case of the City of London out of the consolidated rate ; and

(b) may borrow in like manner as they can borrow for the purposes of the Metropolis Management Acts, 1855 to 1893 ; *and those Acts shall apply with the necessary modifications.*

NOTES TO SECTION NINE

For “ Local Government Board ” read “ Minister of Health.” See the Ministry of Health Act, 1919, s. 3, sub-ss. (1) (a) and (5), Sched. I, and S. R. & O. 1919, No. 850.

The part of sub-s. (3) in italics was repealed by the Local Government Act, 1933, s. 307, and Sch. XI, Part IV ; 26 Halsbury's Statutes 469, 516. By ss. 181, 185, 188–191, *ibid.*, such expenses are chargeable on the county fund and the general rate funds of boroughs and urban and rural districts respectively.

As to sub-s. (4) the limits upon expenditure were increased by the Local Government Act, 1929, s. 75 ; 10 Halsbury's Statutes 932.

The part of sub-s. (5) in italics was repealed by the Local Government Act, 1933, s. 307, and Sch. XI, Part IV. S. 196, *ibid.*, prescribes the authorised modes of borrowing.

Sub-s. (6) was repealed by the Local Government Act, 1929, s. 137 and Sch. XII, Pt. V (10 Halsbury's Statutes 974, 1011), since by s. 74 (1) *ibid.* all limits on the borrowing powers of local authorities by reference to the value for rating purposes of hereditaments within their area are removed.

As to sub-s. (10), see the London Government Act, 1899, s. 10 (11 Halsbury's Statutes 1231), and the City of London (Union of Parishes) Act, 1907 ; 14 Halsbury's Statutes 599. The words in italics in sub-s. (10) were repealed by the Eighth Schedule of the London Government Act, 1939. As to borrowing powers of Metropolitan Borough Councils, see Part VII of that Act.

10. Residence and ownership.—(1) A person shall not be deemed for the purposes of this Act to be resident in a house unless he is both the occupier of and resident in that house.

(2) For the purposes of this Act “ ownership ” shall be such interest or combination of interests in a house as, together with the interest of the purchaser of the ownership, will constitute either a fee simple in possession or a leasehold interest in possession of at least sixty years unexpired at the date of the purchase.

(3) Where the ownership of a house is acquired by means of an advance under this Act, the purchaser of the ownership, or, in the case of any devolution or transfer, the person in whom the interest of the purchaser is for the time being vested, shall be the proprietor of the house for the purposes of this Act.

NOTE TO SECTION TEN

See notes to s. 3, p. 366, *ante*.

[Ss. 11-15. *Application to Scotland.*]

16. Short title.—This Act may be cited as the Small Dwellings Acquisition Act, 1899.

[*Schedules. Application to Scotland.*]

THE HOUSING ACT, 1914

[4 & 5 Geo. 5, Ch. 31]

An Act to make provision with respect to the Housing of Persons employed by or on behalf of Government Departments where sufficient dwelling accommodation is not available.
[10th August, 1919.]

1. Powers of the Local Government Board and Commissioners of Works for the purpose of housing persons employed by Government departments.—

(1) The [Minister of Health] shall have power, with the approval of the Treasury, to make arrangements with any authorised society within the meaning of this Act for the purpose of the provision, maintenance, and management of dwellings and gardens and other works or buildings for or for the convenience of persons employed by or on behalf of Government departments on Government works where sufficient dwelling accommodation is not available for those persons, and the Commissioners of Works shall have power for the same purpose, with the consent of the Treasury, given after consultation with the [Minister of Health] to acquire and dispose of land and buildings, and to build dwellings, and do all other things which appear to them necessary or desirable for effecting that purpose.

(2) The [Minister of Health] may, with the approval of the Treasury, assist any authorised society with whom arrangements are made under this Act on such conditions as they think fit by becoming holders of the share or loan capital thereof or making loans thereto or otherwise as they think fit.

Where the [Minister of Health makes] arrangements under this Act with any authorised society in connexion with the provision or maintenance of dwellings within any borough, the council of the borough shall have the like power, with the approval of the [Minister of Health], of assisting the society as the [Minister of Health has] under this Act with the approval of the Treasury.

Any expenses incurred by the council under this provision shall be defrayed in the same manner as expenses of the council under Part III. of the Housing of the Working Classes Act, 1890; and the council shall have the like power to borrow for the purposes of this provision as they have for the purposes of that Part of that Act.

NOTES TO SECTION ONE

Powers and liabilities of the Local Government Board under this Act were transferred to the Ministry of Health by the Ministry of Health Act, 1919, s. 3 (1) (a), (5), Sched. I. See S. R. & O. 1919, No. 850.

The Housing of the Working Classes Act, 1890, was repealed (as to England) by the Housing Act, 1925, s. 136, Sched. VI, and s. 119, Sched. V of the Settled Land Act, 1925.

The part of sub-section (2) in italics was repealed by the Local Government Act, 1933, s. 307, Sched. XI, Part IV. See now ss. 185-195, *ibid.*; 26 Halsbury's Statutes 407-412.

2. Payment of expenses incurred under Act.—

(1) The Treasury shall, as and when they think fit, issue out of the Consolidated Fund or the growing produce thereof such sums as may be required for the purpose of meeting any expenditure which is, in the opinion of the Treasury, of a capital nature and which is incurred with the consent or approval of the Treasury by or on behalf of the [Minister of Health], or the Commissioners of Works for the purposes of this Act, not exceeding in the aggregate two million pounds; and any expenses incurred for those purposes by the [Minister of Health], or the Commissioners of Works, not being, in the opinion of the Treasury, of the nature of capital expenditure, shall be defrayed out of moneys provided by Parliament, and any receipts arising in connexion therewith shall be paid into the Exchequer.

(2) The Treasury may, if they think fit, for the purpose of providing money for sums so authorised to be issued out of the Consolidated Fund, or for repaying to that Fund any part of the sums so issued, borrow by means of terminable annuities for a term not exceeding thirty years; and all sums so borrowed shall be paid into the Exchequer.

(3) The said annuities shall be paid out of monies provided by Parliament, and, if those moneys are insufficient, shall be charged on and paid out of the Consolidated Fund of the United Kingdom or the growing produce thereof.

(4) The Treasury may also, if they think fit, for the same purpose borrow money by means of the issue of Exchequer bonds and the Capital Expenditure (Money) Act, 1904, shall have effect as if this Act had been in force at the time of the passing of that Act.

(5) The Treasury shall within six months after the end of every financial year, cause to be made out and laid before the House of Commons accounts showing the amount of any expenditure of a capital nature incurred by the [Minister of Health] and the Commissioners of Works, respectively, under this Act, and of the money borrowed and the securities created under this Act; and any such accounts of expenditure shall be audited and reported upon by the Comptroller and Auditor-General as appropriation accounts in manner provided by the Exchequer and Audit Departments Act, 1866.

3. Interpretation, application, and short title.—

(1) In this Act the expression “authorised society” means any society, company, or body of persons approved by the Treasury whose objects include the erection, improvement, or management of dwellings for working classes, which does not trade for profit, or whose constitution forbids the payment of any interest or dividend at a rate exceeding five per cent. per annum.

(2) In the application of this Act to Scotland the Local Government Board for Scotland shall be substituted for the [Minister of Health], and “burgh” shall be substituted for “borough.”

(3) This Act shall not apply to Ireland.

(4) This Act may be cited as the Housing Act, 1914.

HOUSING, TOWN PLANNING, ETC., ACT, 1919

[9 & 10 Geo. 5, Ch. 35]

An Act to amend the enactments relating to the Housing of the Working Classes, Town Planning, and the acquisition of small dwellings [31st July, 1919.]

NOTE

This Act was in the main repealed and re-enacted in the Housing Act, 1925, and the Town Planning Act, 1925. Ss. 7 and 19, although repealed by s. 6 of the Housing, etc., Act, 1923, are still of importance and s. 7 will be found set out in the notes to s. 111, p. 243, *ante*.

PART III—ACQUISITION OF SMALL DWELLINGS

49. Amendment of 62 & 63 Vict. c. 44.—The following amendments shall be made in the Small Dwellings Acquisition Act, 1899 (a) :—

- (a) *In sub-section (I) of section one "eight hundred pounds" shall be substituted for "four hundred pounds" as the limit on the market value of houses in respect of which advances may be made :*
- (b) *In paragraph (a) sub-section (I) of section one "eighty-five per cent." shall be substituted for "four-fifths" with respect to the limitation on the amount which may be advanced.*
- (c) *Paragraph (b) of sub-section (I) of section one shall be repealed :*
- (d) *A receipt under seal in the form set out in Part I. of the Fourth Schedule to this Act (with such variations and additions (if any) as may be thought expedient) endorsed on, or written at the foot of, or annexed to, a mortgage for money advanced under the Act which states the name of the person who pays the money and is executed by a local authority shall, without any re-conveyance, re-assignment or release operate as a discharge of the mortgaged property from all principal money and interest secured by, and from all claims under the mortgage, and shall have such further operation as is specified in Part II. of that schedule ;*

Provided that—

(a) nothing in this provision shall affect the right of any person to require the re-conveyance, re-assignment, surrender, release, or transfer to be executed in lieu of a receipt ; and

(b) the receipt shall not be liable to stamp duty and shall be granted free of cost to the person who pays the money.

NOTES TO SECTION FORTY-NINE

(a) See this Act at p. 359, *ante*. The amendments contained in this section are embodied in the text of the Act and noted in the notes thereto.

Paragraphs (a), (b) and (c) repealed by 17 & 18 Geo. 5, c. 42 (S.L.R.).

* * * * *

GENERAL

52.—(4) The Small Dwellings Acquisition Act, 1899, and Part III. of this Act may be cited together as the Small Dwellings Acquisition Acts, 1899 and 1919.

SCHEDULES

FOURTH SCHEDULE.

(Section 49.)

PART I.

Form of Endorsed Receipt.

The local authority of _____ hereby acknowledge that they have this _____ day of _____ 19____, received the sum of £_____ representing the [aggregate] [balance remaining owing in respect of the] principal money secured by the within [above] written [annexed] mortgage [and by an indenture of further charge dated, &c., or otherwise as required] together with all interest and costs, the payment having been made by _____ of [&c.] and _____ of [&c.] out of money in their hands properly applicable for the discharge of the mortgage [or otherwise as required].

In witness, etc.

PART II.

Effect of Endorsed Receipt.

(1) Any such receipt shall operate—

(a) In the case of land in fee simple comprised in the mortgage, as a conveyance or re-conveyance (as the case may be) of the land to the person (if any) who immediately before the execution of the receipt was entitled in fee simple to the equity of redemption, or otherwise to the mortgagor in fee simple to the uses (if any) upon the trusts subject to the powers and provisions which at that time are subsisting or capable of taking effect with respect to the equity of redemption or to uses (if any) which correspond as nearly as may be with the limitations then affecting the equity of redemption ;

- (b) In the case of other property, as an assignment or reassignment (as the case may be) thereof to the extent of the interest which is the subject-matter of the mortgage, to the person who immediately before the execution of the receipt was entitled to the equity of redemption :

Provided that (except as hereinafter mentioned) where, by the receipt, the money appears to have been paid by a person who is not entitled to the immediate equity of redemption, then, unless it is otherwise expressly provided, the receipt shall operate as if the mortgage had been a statutory mortgage and the benefit thereof had, by deed expressed to be made by way of statutory transfer of mortgage, been transferred to him ; but this provision shall not apply where the mortgage is paid off out of capital money, or other money in the hands of a personal representative or trustee properly applicable for the discharge of the mortgage, unless it is expressly provided that the receipt is to operate as a transfer.

(2) Nothing in this schedule shall confer on a mortgagor a right to keep alive a mortgage, paid off by him, so as to affect prejudicially any subsequent incumbrancer ; and where there is no right to keep the mortgage alive, the receipt shall not operate as a transfer.

(3) In any such receipt the same covenants shall be implied as if the person who executes the receipt had by deed expressed to convey the property as mortgagee.

(4) Where a mortgage consists of a mortgage and a further charge or of more than one deed, it shall be sufficient if the receipt refers either to all deeds whereby the mortgage money is secured or to the aggregate amount of the mortgage money thereby secured and is endorsed on, written at the foot of, or annexed to, one of the mortgage deeds.

(5) In this schedule the expressions " mortgage " " mortgage money " " mortgagor " and " mortgagee " have the same meanings as in the Conveyancing Act, 1881.

NOTE TO FOURTH SCHEDULE

The Conveyancing Act, 1881, is now repealed and for reference to that Act references to the Law of Property Act, 1925, must be substituted. The expressions referred to are defined in *ibid.*, s. 205 (1) (xvi) ; 15 Halsbury's Statutes 386.

HOUSING ACT, 1921

[11 & 12 Geo. 5, Ch. 19]

An Act to amend the law relating to the Housing of the People, and for Purposes in connection therewith.

[1st July, 1921.]

5. Rate of interest on certain advances and expenses.—The rate of interest on advances under section one of the Small Dwellings Acquisition Act, 1899 (a) (which empowers a local authority to advance money to residents

in houses for the purchase thereof), shall, as regards advances made after the commencement of this Act, be such rate as the Minister may, with the approval of the Treasury, from time to time by order (b) fix, and different rates of interest may be fixed for different purposes and in different cases.

NOTES TO SECTION FIVE

(a) See this section at p. 363, *ante*.

(b) Orders have from time to time been made by the Minister. For the latest order inquire at the Ministry of Health. The Minister has also made a number of orders fixing varying rates, which are, however, only of local effect.

HOUSING, ETC., ACT, 1923

[13 & 14 Geo. 5, Ch. 24]

An Act to amend the enactments relating to the Housing of the Working Classes (including the amendment and revocation of building byelaws), Town Planning and the Acquisition of Small Dwellings.
[31st July, 1923.]

PART III.—AMENDMENTS OF THE SMALL DWELLINGS ACQUISITION ACTS.

22. Amendments of 62 & 63 Vict. c. 44.—The Small Dwellings Acquisition Act, 1899, shall have effect subject to the following amendments:—

- (a) An advance under that Act may be made to a person intending to construct a house, and in such a case the limitation in that Act requiring that the person to whom the advance is made must be resident in the house, shall be construed as requiring that the person should be a person intending to reside in the house when constructed :
- (b) *The limit on the market value of houses in respect of which advances may be made under that Act shall be increased from eight hundred to twelve hundred pounds :*
- (c) The statutory condition requiring the proprietor of a house in respect of which an advance has been made to reside in the house shall have effect

for a period of three years from the date when the advance is made, or from the date on which the house is completed, whichever is the later, but no longer, and compliance with this condition may at any time be dispensed with by the local authority :

- (d) The market value of the ownership of any house in respect of which an advance is to be made under that Act shall be ascertained by means of a valuation duly made on behalf of the local authority, and the amount of any such advance shall not exceed ninety per cent. of the market value as so ascertained :
- (e) Where an advance is made in respect of a house in course of construction, the advance may be made by instalments from time to time as the building of the house progresses, so that the total advance does not at any time before the completion of the house exceed fifty per cent. of the value of the work done up to that time on the construction of the house including the value of the interest of the person to whom the advance is made in the site thereof :
- (f) *A person shall not, by reason only of the fact that an advance is made to him under that Act, be disqualified from being elected as or being a member of the local authority by whom the advance is made or any committee of such local authority.*

NOTE TO SECTION TWENTY-TWO

See the Small Dwellings Acquisition Act, 1899, *ante*, p. 359, and introductory notes thereto. Paragraph (b) was repealed by Part I of the Seventh Schedule to the Housing Act, 1935, and paragraph (f) was repealed by the Local Government Act, 1933, s. 307, Sched. XI, Part IV. See now ss. 59, 76, *ibid.* Para. (f) was repealed as to London by the Eighth Schedule to the London Government Act, 1939. See now s. 34 (2) (f) of that Act ; 32 Halsbury's Statutes 278.

PART IV.—GENERAL.

25. Short title.—

(6) The Small Dwellings Acquisition Acts, 1899 and 1919, and Part III. of this Act, may be cited together as the Small Dwellings Acquisition Acts, 1899 to 1923.

HOUSING (RURAL AUTHORITIES) ACT, 1931

[21 & 22 Geo. 5, Ch. 39]

An Act to enable further assistance to be given to rural housing authorities in regard to the provision of houses in agricultural parishes in England and in rural areas in Scotland for agricultural workers and for persons whose economic condition is substantially the same as that of such workers, and in connection therewith to amend the provisions of section three of the Housing (Financial Provisions) Act, 1924, with respect to the rents of such houses.

[31st July 1931.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. Special Government contributions to housing expenses of certain rural district councils.—(1) The Minister of Health (in this Act referred to as "the Minister") may, subject to the provisions of this Act and on the recommendation of a committee (hereinafter referred to as "the Committee") appointed by him with the approval of the Treasury for the purposes of this Act, undertake to make special contributions, *on such conditions as he may with the like approval determine* towards the expenses to be incurred by such rural district councils as are hereinafter mentioned (a) in providing houses in the agricultural parishes (b) of their districts for agricultural workers and persons of substantially the same economic condition, that is to say, persons whose incomes are, in the opinion of the council concerned, such that they would not ordinarily pay rents in excess of those paid by agricultural workers in the council's district.

(2) If any member of the Committee becomes, in the opinion of the Minister, unfit for any reason to continue to be a member of the Committee, the Minister may terminate his appointment.

(3) Contributions may be made under this section to such rural district councils only as—

- (a) before the thirtieth day of November, nineteen hundred and thirty-one, make application to the Committee for the purpose ; and
- (b) satisfy the Committee that their financial resources are insufficient to enable them without assistance under this section to make adequate provision in the agricultural parishes of their districts for meeting the need for houses for such persons as are mentioned in subsection (1) of this section.

(4) In considering applications so made to them, the Committee shall be guided by any general directions which may be given to them by the Minister, with the approval of the Treasury, for the purposes of this section.

(5) The Minister shall cause any conditions laid down by him under subsection (1) of this section, and any directions given by him under the last preceding subsection, to be laid forthwith before the Commons House of Parliament, and, if that House within the next twenty-one days on which the House has sat after any such conditions or directions are laid before it, resolves that they shall be annulled, they shall cease to have effect but without prejudice to the validity of anything previously done thereunder, or to the laying down or giving of fresh conditions or directions.

(6) A contribution under this section shall be such sum payable annually (c) for a period of forty years in respect of each house as the Minister, on the recommendation of the Committee, may determine to be appropriate to the circumstances of the particular council and shall be in addition to, and not in substitution for, any contributions payable by the Minister under the Housing (Financial Provisions) Act, 1924, or by a county council under section thirty-four of the Housing Act, 1930.

(7) *The rents to be charged by a council for the houses in respect of which contributions are being made under this section shall not exceed such sums as may be determined by the Minister in accordance with recommendations of the Committee, and in relation to any such house the Housing (Financial Provisions) Act, 1924, shall have effect as if compliance with the requirement imposed by this subsection were compliance with the requirements of paragraph (e) of subsection (1) of section three of that Act and, for the purposes of any calculation of rents of other houses to be made under the said paragraph, any such house shall be disregarded.*

NOTES TO SECTION ONE

The words printed in italics were repealed by the Act of 1935, Fifth and Seventh Schedules. For the conditions which must be observed by local authorities in the management of houses provided by them, see now ss. 85 and 86 of the Act of 1936, p. 206, *ante*.

The special contributions referred to in this section are Exchequer contributions within the meaning of s. 111 of the Act of 1936. Local authorities will therefore be under a duty to credit such contributions to their Housing Revenue Account (see. s. 128) and themselves to make a contribution under para. 4 of the Eighth Schedule to that Act.

(a) "**Hereinafter mentioned.**"—See sub-s. (3).

(b) "**Agricultural parishes.**"—See s. 3.

(c) "**Payable annually.**"—For the time and method of payment of Government contributions, see s. 112 of the Act of 1936 and notes thereto, p. 245, *ante*, and for the power of the Minister to withhold contributions see s. 113 of that Act.

2. Power of Minister of Health to assist rural district councils by acquiring land and erecting houses.—With a view to assisting rural district councils in the preparation and carrying out of schemes for the provision of dwelling accommodation in the agricultural parishes of their districts to meet the needs of such persons as are mentioned in subsection (1) of the preceding section, the Minister, if he is requested by any such council so to do and is satisfied that their financial resources are insufficient, and that the council of the county is unwilling to give assistance to them under subsection (1) of section thirty-three of the Housing Act, 1930 (*a*), may with the consent of the Treasury acquire land and erect houses on behalf and at the expense of that council, and for that purpose may exercise any powers which under the enactments relating to the housing of the working classes, the council might exercise in regard to the acquisition of land and the erection of houses, or may make arrangements with any other Government Department for the exercise by that Department of any of those powers which, in his opinion, could more conveniently be so exercised.

NOTE TO SECTION TWO

(a) **Housing Act, 1930, s. 33 (1).**—See now s. 89 (1) of the Act of 1936, p. 214, *ante*.

3. Meaning of "agricultural parish."—For the purposes of this Act, the expression "agricultural parish" has the same meaning as that which, by virtue of section sixty of the Housing Act, 1930 (*a*), it has for the purposes of Part III of that Act.

NOTE TO SECTION THREE

(a) **Housing Act, 1930, s. 60.**—For the definition of “agricultural parish,” see now s. 105 (7) of the Act of 1936, p. 236, *ante*.

4. Application to Scotland.—(1) Sections one and two of this Act, in their application to Scotland, shall have effect subject to the following modifications:—

- (a) References to the Minister of Health shall be construed as references to the Department of Health for Scotland (in this section referred to as “the Department”), and references to the Committee shall be construed as references to a committee appointed by the Department with the approval of the Treasury for the purposes of this Act; and
- (b) References to rural district councils and to their districts shall be construed as references to county councils as local authorities under the Housing (Scotland) Act, 1925, and to their counties, and references to agricultural parishes shall be construed as references to rural areas.

(2) In this section the expression “rural area” has the same meaning as that which it has in the Housing (Financial Provisions) Act, 1924, as amended by the Housing (Scotland) Act, 1930, and any question as to whether an area is or is not a rural area shall be determined by the Department, whose decision shall be final.

5. Expenses of Minister of Health and Department of Health for Scotland.—Any contributions which the Minister of Health and the Department of Health for Scotland may undertake to make under section one of this Act shall be defrayed out of moneys provided by Parliament, but the present capital values of those contributions as calculated at the dates on which the Minister or, as the case may be, the Department undertake to make them (interest being reckoned for the purpose at the rate of four pounds ten shillings per centum per annum) shall not in the aggregate exceed the sum of two million pounds, of which eighty ninety-first parts shall be allocated to England, and eleven ninety-first parts shall be allocated to Scotland.

6. Short title and extent.—(1) This Act may be cited as the Housing (Rural Authorities) Act, 1931.

(2) This Act shall not extend to Northern Ireland.

THE HOUSING ACT, 1935

[25 & 26 Geo. 5, Ch. 40]

92. Amendments of Small Dwellings Acquisition Acts.—(1) The limit on the market value of houses in respect of which an advance may be made under the Small Dwellings Acquisition Acts, 1899 to 1923, shall, as regards an advance made after the thirty-first day of October, nineteen hundred and thirty-five, be reduced from twelve hundred pounds to eight hundred pounds.

(2) The rate of interest on advances under the said Acts shall, as regards advances made after the commencement of this Act, be a rate one quarter per cent. in excess of the rate of interest which, one month before the date on which the terms of the advance are settled, was the rate fixed by the Treasury under section one of the Public Works Loans Act, 1897, in respect of loans to local authorities advanced out of the Local Loans Fund for the purposes of Part III of the Act of 1925.

(3) An advance made under the said Acts shall for the purposes of those Acts and of this section be deemed to be made on the date on which the instrument securing the repayment of the advance is executed.

NOTE TO SECTION NINETY-TWO

By s. 6 (1) of the Building Materials and Housing Act, 1945, p. 419, *post*, the limit fixed by sub-s. (1) has been increased in respect of advances made after December 20, 1945, from eight hundred to fifteen hundred pounds.

The rates on loans to local authorities from the local loans funds from June 1, 1946, are :

Loans for not more than 5 years	..	..	..	..	1½%
Loans for more than 5 but not more than 15 years	..	..	..	..	2%
Loans for more than 15 years	..	..	..	..	2½%

See Circular 125/46 of June 21, 1946.

HOUSING (FINANCIAL PROVISIONS) ACT, 1938

[1 & 2 Geo. 6, Ch. 16]

ARRANGEMENT OF SECTIONS.

GOVERNMENT CONTRIBUTIONS.

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SCHEDULE :

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An Act to amend the law with respect to the making of contributions out of the Exchequer and by local authorities in respect of housing accommodation provided for the working classes, and with respect to arrangements between local authorities and other persons for the provision of housing accommodation; and for purposes connected with the matters aforesaid. [30th March 1938.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

GOVERNMENT CONTRIBUTIONS.

1. General provision for contributions in respect of housing accommodation provided by local authorities.—(1) Subject to the provisions of this Act, the Minister shall undertake to make, and shall make, in respect of each new house (*a*) completed after the beginning of the year nineteen hundred and thirty-nine by way of housing accommodation (*b*) provided by a local authority and approved for the purposes of this section by the Minister, being housing accommodation to which this section applies, payment to that local authority of an annual contribution of the amount of five pounds ten shillings for a period of forty years :

Provided that no contribution shall be payable under this section in respect of any house in respect of which a contribution is payable under the next following section.

(2) The annual amount of any contribution which, under this section, the Minister must make, and undertake to make, in respect of a flat provided in a block of flats (*c*) on a site the cost of which as developed (ascertained in accordance with the Schedule to this Act) exceeds one thousand five hundred pounds per acre, shall, instead of five pounds ten shillings, be the appropriate amount prescribed by that Schedule (*d*).

(3) If, with respect to any proposals of the council of any non-county borough or urban district to provide any housing accommodation to which this section applies, the Minister, upon an application made by the borough or district council, is satisfied after consultation with the county council and having regard to any conditions which may be laid down by the Treasury,—

- (a) that the houses in the borough or district which are occupied by members of the working classes are let at rents substantially less on the average than the average of the rents of houses so occupied in non-county boroughs and urban districts in England generally, and
- (b) that when the amount of the expenditure incurred or to be incurred by the borough or district council under the enactments relating to housing is considered in relation to the financial resources of the borough or district, the provision of the said accommodation would impose an undue burden (*e*) on the borough or district, unless the annual amount of any contribution payable under this section in

relation to that accommodation exceeds five pounds ten shillings,

then, if the Minister thinks fit so to determine, the annual amount of any contribution which under this section he must make, and undertake to make, in respect of any house provided by the borough or district council in carrying out the said proposals (being a contribution which apart from this subsection would be of the annual amount of five pounds ten shillings) shall, instead of that amount, be six pounds ten shillings.

(4) The last preceding subsection shall have effect in relation to any proposals of the council of a rural district to provide any housing accommodation to which this section applies, as that subsection has effect in relation to proposals of the council of any non-county borough or urban district subject however to the modification that for any reference in that subsection to the borough or district council, to the borough or district, or to non-county boroughs and urban districts there shall be substituted a reference to the rural district council, to the rural district or to rural districts, as the case may be.

(5) This section applies to housing accommodation which—

(a) is rendered necessary—

(i) by displacements of persons occurring in connection with any action taken by the local authority under the principal Act for the demolition of insanitary houses, for dealing with clearance or improvement areas or for closing parts of buildings, or

(ii) by displacements, occurring in the carrying out of re-development in accordance with a re-development plan, from houses which are unfit for human habitation and are not capable of being rendered fit for human habitation at reasonable expense, or

(b) is required for the purpose of the abatement of overcrowding in the area of the local authority, or rendered necessary by displacements occurring in the carrying out of re-development as aforesaid, from houses other than such as are mentioned in sub-paragraph (ii) of the preceding paragraph (f).

(6) As respects the administrative county of London exclusive of the City of London, both the London County Council and the council of a metropolitan borough shall be

local authorities (g) for the purposes of this section except subsection (3) thereof.

(7) Subsection (2) of section eighty-nine (h), subsection (3) of section one hundred and sixty-nine (i) and subsection (2) of section one hundred and seventy-two (j) of the principal Act shall have effect as if the references in those subsections to section one hundred and five (k) of that Act included references to this section.

NOTES TO SECTION 1.

General Note.—No contribution is now payable under this section unless the approval of the Minister was given before the 3rd, August, 1944; see s. 9 of the Housing (Financial and Miscellaneous Provisions) Act, 1946, p. 439, *post*. Certain other houses, which were completed under this Act, may obtain the higher subsidies under the 1946 Act, where they were provided in pursuance of contracts made after the 31st December, 1939; see s. 10 of the 1946 Act, p. 440, *post*. That section relates to houses completed during the war with the approval of the Minister and rural houses provided under the emergency programme of 1943.

This section replaced the *per capita* grant system of the principal Act with a contribution in respect of each house. It also provided uniform rates of contribution for new houses provided for all the different purposes of the Housing Acts whether occasioned by displacements through demolition, closing, clearance, improvement, re-development or the abatement of overcrowding. (See ss. 105 to 107 of the principal Act, pp. 235 *et seq.*, *ante*.)

Sub-s. (5) makes good the omission from s. 105 of the principal Act of persons displaced by re-development otherwise than from unfit houses; and brings houses provided for the abatement of overcrowding under the same conditions as to Exchequer grants as houses provided for other displacements.

By s. 1 of the Housing (Temporary Provisions) Act, 1944, p. 402, *post*, the limitation of Exchequer grants to houses provided for the purposes of sub-s. (5) was to be disregarded between the 3rd August, 1944, and the 1st October, 1947. This limitation, however, is omitted from the Housing (Financial and Miscellaneous Provisions) Act, 1946, and under s. 9 of that Act, p. 439, *post*, contributions under that Act are made payable in respect of houses approved by the Minister on or after the 3rd August, 1944.

For Exchequer contributions now payable under the Housing (Financial and Miscellaneous Provisions) Act, 1946, see ss. 1 to 4, 6, 7, and 9 to 12 of that Act, pp. 429, 435, 439, *post*.

(a) "**House.**"—In this Act house is to be construed as including a reference to a flat; see s. 11, p. 399, *post*. See also s. 188 (3) of the principal Act, p. 314, *ante*.

(b) "**Housing accommodation.**"—For standards of housing accommodation see s. 136 of the principal Act, p. 269, *ante*.

(c) "**Block of Flats.**"—See definition in s. 11, p. 399, *post*.

(d) "**Schedule to this Act.**"—See p. 400, *post*. For Exchequer contributions in respect of flats provided in blocks of flats under the Housing (Financial and Miscellaneous Provisions) Act, 1946, see s. 4, p. 432, *post*, and the First Schedule, p. 461, *post*, to that Act.

(e) "**Undue burden.**"—For provisions relating to cases of "undue burden" in the Housing (Financial and Miscellaneous Provisions) Act, 1946, see ss. 3 (2) and 7 of that Act, pp. 431, 436, *post*.

(f) **Sub-section (5).**—Para. (b) of this sub-section brings the Exchequer contributions for houses provided for the abatement of overcrowding into line with the houses provided for other displacements and makes contributions

payable in the same way for houses provided for the re-housing of persons displaced by a re-development plan from houses that are not unfit for human habitation. This sub-section was to be treated as omitted in so far as it limited the power to provide housing accommodation to the purposes specified in paras. (a) and (b), between 3rd August, 1944, and the 1st October, 1947. See s. 1 of the Housing (Temporary Provisions) Act, 1944, p. 402, *post*. By s. 9 of the Housing (Financial and Miscellaneous Provisions) Act, 1946, p. 439, *post*, however, houses approved by the Minister on or after the 3rd August, 1944, earn the subsidies payable under that Act. The 1946 Act contains no limiting provision of the character of this sub-section. A further amendment to this sub-section was made by s. 48 of the Town and Country Planning Act, 1944. That section was repealed, however, by s. 9 of the 1946 Act and since the date of passing of the Town and Country Planning Act, 1944, was the 17th November, 1944, and since no contributions are payable under this section unless approved before the 3rd August, 1944, there seems no point in reproducing an ineffective amendment.

(g) **Local Authorities.**—As to local authorities for the provision of housing accommodation in London, see also s. 103 of the principal Act, p. 230, *ante*.

(h) **Section 89 (2).**—Agreements by county council for assisting rural district councils in provision of accommodation. See p. 214, *ante*.

(i) **Section 169 (3).**—Default by rural district council. See p. 295, *ante*.

(j) **Section 172 (2).**—Transfer of powers of urban district to county council. See p. 299, *ante*.

(k) **Section 105.**—Exchequer contributions under the principal Act. See p. 235, *ante*.

2. Contributions in respect of agricultural housing accommodation provided by local authorities.—(1)

Subject to the following provisions of this Act, the Minister shall undertake to make, and shall make, in respect of each new house completed after the beginning of the year nineteen hundred and thirty-nine which, with the approval of the Minister, is provided by the council of a county district by way of housing accommodation required for the agricultural population (a) of the district, payment to that council of an annual contribution of the amount of ten pounds for a period of forty years :

Provided that if, with respect to any proposals of such a council to provide such housing accommodation as aforesaid, the Minister, upon an application made by the council, is satisfied, after consultation with the county council and having regard to any conditions which may be laid down by the Treasury, that the provision of the said accommodation would, without any increase of any contribution which would otherwise be payable under this section in relation to that accommodation, impose an undue burden (b) on the county district by reason of—

(a) the exceptionally high cost of providing the accommodation, and

- (b) the amount of the rents which it will be practicable for the council of the county district to charge for the accommodation,

then, if the Minister thinks fit so to determine, the annual amount of any contribution which under this section he must make, and undertake to make, in respect of any house provided by the last-mentioned council in carrying out the said proposals shall, instead of ten pounds, be such greater amount not exceeding twelve pounds as the Minister may determine.

(2) The council of a county district shall secure that a number of houses equal to the number of houses (if any) in respect of which contributions are payable under this section to the council are reserved for members of the agricultural population, except in so far as the demand for housing accommodation in the county district on the part of members of the agricultural population can be satisfied without such reservation.

(3) Section one hundred and thirty-six (c) of the principal Act shall apply for the purposes of this section as it applies for the purposes of the provisions of the principal Act which relate to Government contributions to the expenses of local authorities in providing accommodation available for displaced persons; and subsection (2) of section eighty-nine (d), subsection (3) of section one hundred and sixty-nine (e) and subsection (2) of section one hundred and seventy-two (f) of the principal Act shall have effect as if the references in those subsections to section one hundred and five (g) of that Act included references to this section.

NOTES TO SECTION 2.

General Note.—No contribution under this section is payable in respect of houses approved by the Minister after the 3rd August, 1944; see s. 9 of the Housing (Financial and Miscellaneous Provisions) Act, 1946, p. 439, *post*. Houses completed after the 31st December, 1939, otherwise than in pursuance of a contract made before that date may also obtain an Exchequer contribution under the 1946 Act; see s. 10 thereof, p. 440, *post*. Exchequer contributions are made in respect of each new house instead of the *per capita* basis of the principal Act. For current Exchequer contributions in respect of agricultural housing accommodation see s. 3 of the Housing (Financial and Miscellaneous Provisions) Act, 1946, p. 430, *post*.

(a) “**Agricultural population.**”—Definition. See s. 115 (2) of the principal Act, p. 247, *ante*.

(b) “**Undue burden.**”—See also ss. 3 (2) and 7 of the Housing (Financial and Miscellaneous Provisions) Act, 1946, pp. 431, 436, *post*.

(c) **Section 136 of the Principal Act.**—Standards of housing accommodation, p. 269, *ante*.

(d) **Section 89 (2).**—Agreements by county council for assisting rural district in providing accommodation, p. 214, *ante*.

(e) **Section 169 (3).**—Default by rural district council, p. 295, *ante*.

(f) **Section 172 (2).**—Transfer of powers of urban district to county council, p. 299, *ante*.

(g) **Section 105.**—Exchequer contributions under the principal Act, p. 235, *ante*.

3. Contributions in respect of agricultural housing accommodation provided by persons other than local authorities.—(1) Where the council of a county district are satisfied that in any particular case housing accommodation required for members of the agricultural population of the district could more conveniently be provided by some person other than the council, they may, subject to any conditions imposed by the Minister, make arrangements for the provision of such accommodation by that person ; and if the Minister is satisfied that the arrangements are such as to secure that any house provided in pursuance thereof—

(a) is reserved for members of the agricultural population (a), and

[(b) if let, is let at a rent not exceeding such rent as in the opinion of the council it would have been appropriate for the council to charge if the house had been provided by the council]

(c) is suitable in respect of its size and construction, then, subject to the following provisions of this Act, the Minister may undertake to make, and may make, in respect of each new house which, with his approval, is provided in pursuance of the arrangements, payment to that council of an annual contribution of such amount not exceeding [fifteen] pounds as the Minister may determine, being a contribution payable for a period of forty years ; and in that event the council shall pay by way of annual grant to the owner of the house an amount not less than the contribution paid by the Minister :

Provided that no contribution under this section shall be payable in respect of any house for any year, unless—

(i) the conditions specified in paragraphs (a) and (b) of this subsection are observed in relation to that house throughout that year, and

(ii) the council of the county district certify to the Minister that all reasonable steps have been taken to secure the maintenance of that house in a proper state of repair during that year.

(2) Where a house provided under arrangements made in pursuance of this section is let together with other land

at a single rent, such proportion of that rent as the council of the county district may determine shall be deemed, for the purpose of paragraph (b) of subsection (1) of this section, to be the rent at which the house is let.

NOTES TO SECTION 3.

General Note.—The para. (b) of sub-s. (1) in square brackets was substituted in respect of arrangements made after the 18th April, 1946, for the following :

(b) *if let, is let at a rent not exceeding—*

(i) *the weekly rent which, by any order of the appropriate agricultural wages committee in force at the time of the letting, is determined as the value at which the benefit or advantage of a cottage is to be reckoned as payment of wages in lieu of payment in cash for the purpose of any minimum rate of wages fixed by the said committee under the Agricultural Wages (Regulation) Act, 1924, or*

(ii) *if no such rent is so determined, such weekly rent as may be determined by the council of the county district, and*

This amendment was made by s. 13 of the Housing (Financial and Miscellaneous Provisions) Act, 1946, p. 445, *post*. S. 13 of that Act also increased the contribution which could be paid from £10 to £15; and by sub-s. (3) of s. 13 it is enacted: "13 (3). In respect of a new house completed after the passing of this Act, no contribution shall be payable under the said section three (this section) for any year during the whole or any part of which the house has been occupied by a person who was not the owner or a tenant of the house."

The date of the passing of the Housing (Financial and Miscellaneous Provisions) Act, 1946, was the 18th April, 1946. These amendments have the effect of bringing the rent into line with rents which will be charged by the authority for houses provided by them and preventing the payment of a subsidy on a "tied" house.

For the position where after the 18th April, 1946, a house provided under this section becomes vested in the local authority see s. 15 (2) of the Housing (Financial and Miscellaneous Provisions) Act, 1946, p. 447, *post*.

(a) **Agricultural population.**—For definition see s. 115 (2) of the principal Act, p. 247, *ante*.

4. Contributions to be paid out of Exchequer.—

The sums required for the payment of any contribution which the Minister is required or authorised by the preceding sections of this Act to make shall be paid out of moneys provided by Parliament; and any such contribution as aforesaid, not being a contribution payable under the last preceding section, shall be deemed for the purposes of the principal Act to be an Exchequer contribution (a).

NOTE TO SECTION 4.

(a) **Exchequer contribution.**—See definition contained in s. 188 of the principal Act, p. 311, *ante*. The effect of this section is to compel such contributions to be credited to the Housing Revenue Account. See s. 129 (1) (b) of the principal Act, p. 258, *ante*, and the general note thereto.

5. Review of contributions.—Section one hundred and nine of the principal Act (which provides for a review of certain contributions) shall have effect subject to the following amendments, that is to say :—

- (a) for subsection (1) of that section there shall be substituted the following subsection :—

“(1) In the year nineteen hundred and forty-one, after the beginning of October in that year, and in each third succeeding year, after the beginning of October in that year, the Minister shall, in connection with contributions which he is required to make under section one or section two of the Housing (Financial Provisions) Act, 1938, take into consideration the amount of expenses likely to be incurred by local authorities, in the period of three years beginning with the next following first day of April, in connection with operations relevant to the question whether or not contributions are payable under that section, and also the amount of expenses already incurred by local authorities in connection with such operations ” ; and

- (b) in subsection (3) of that section for the words “ nineteen hundred and thirty-seven, be the thirty-first day of March nineteen hundred and thirty-eight ” there shall be substituted the words “ nineteen hundred and forty-one, be the thirtieth day of September ” ;

and sub-section (2) of that section shall be deemed not to have come into operation until the date of the passing of this Act.

NOTE TO SECTION 5.

General Note.—This section and s. 109 of the principal Act were repealed with effect from the 30th September, 1944, by s. 16 (7) of the Housing (Financial and Miscellaneous Provisions) Act, 1946, p. 449, *post*. For provisions relating to the review of contributions under that Act see s. 16 thereof, p. 448, *post*.

CONTRIBUTIONS OUT OF RATES.

6. Local authorities' contributions.—(1) A local authority to whom the Minister has, under section one (a) of this Act, undertaken to make a contribution in respect of any house shall, for each financial year during the period of sixty years from the completion of the house, make out of the general rate fund a contribution of the annual amount, calculated by reference to a period of sixty years, equivalent

to half the annual amount of the Minister's contribution payable for a period of forty years :

Provided that, where the annual amount of the contribution which the Minister has so undertaken to make is six pounds ten shillings, the contribution to be made under this subsection by the local authority shall be of the annual amount, calculated as aforesaid, equivalent to two pounds fifteen shillings payable for a period of forty years.

(2) Any council of a county district to whom the Minister has, under section two (b) of this Act, undertaken to make a contribution in respect of any house shall, for each financial year during the period of sixty years from the completion of the house, make out of the general rate fund a contribution of the annual amount, calculated by reference to a period of sixty years, equivalent to one pound a year payable for a period of forty years.

(3) Where a local authority are of opinion that any contribution payable by them under subsection (1) or subsection (2) of this section should be provided by annual instalments during a period of less than sixty years, the Minister may, upon an application made by that local authority, direct that the said subsection (1) or subsection (2), as the case may be, shall have effect in relation to that contribution as if for any reference in that subsection to a period of sixty years there were substituted a reference to such period, not being less than forty years, as the Minister thinks proper.

(4) *It shall be a condition of the right of a local authority to receive any contribution which, for the purposes of the principal Act, is or is to be deemed to be an Exchequer contribution, that the local authority shall make out of the general rate fund the contributions which they are required by section one hundred and fourteen of the principal Act and by this section to make ; and in section one hundred and fourteen of the principal Act the words from " and it shall be a condition " to the end of the section shall cease to have effect.*

(5) The following provisions of the principal Act, that is to say, section eighty-six (c), subsection (1) of section one hundred and twenty-nine (d) and subsection (2) of section one hundred and thirty (e), shall have effect as if any reference in those provisions to the Eighth Schedule to that Act included a reference to this section.

NOTES TO SECTION 6.

General Note.—This section provides for contributions from the general rate fund in the case where an Exchequer contribution is payable under ss. 1

and 2. Sub-s. (3) re-enacts for the purposes of this Act the proviso to para. 6 of the Eighth Schedule to the principal Act, p. 343, *ante*. This provision enables the authority, with the consent of the Minister, to spread their contributions over a lesser period such period, to be not less than the period for which the Exchequer contributions are payable. Sub-s. (4) was repealed by s. 20 of the Housing (Financial and Miscellaneous Provisions) Act, 1946, p. 455, *post*. That repeal is without prejudice to the Minister's powers under s. 113 of the principal Act, p. 245, *ante*, to reduce or withhold Exchequer payments where a local authority are in default in their own contribution. The effect of the repeal is that it is no longer a condition that there must be a rate fund contribution before there can be an Exchequer contribution. The matter is now in the discretion of the Minister. The repeal of the sub-section does not revive the repealed words in s. 114 of the principal Act, p. 246, *ante*. See s. 11 of the Interpretation Act, 1889; 18 Halsbury's Statutes 994.

(a) **Section 1.**—General Exchequer contributions in respect of new houses provided under this Act, p. 386, *ante*.

(b) **Section 2.**—Contributions in respect of agricultural housing accommodation provided under this Act, p. 389, *ante*.

(c) **Section 86 of the principal Act.**—Conditions on the sale of local authority's houses, p. 209, *ante*.

(d) **Section 129 (1) of the principal Act.**—Credits to the Housing Revenue Account, p. 258, *ante*.

(e) **Section 130 (2) of the principal Act.**—Disposal of balances in Housing Revenue Accounts, p. 262, *ante*; but see also s. 21 (3) of the Housing (Financial and Miscellaneous Provisions) Act, 1946, p. 456, *post*.

7. County councils' contributions.—(1) In respect of each house in respect of which the Minister—

- (a) has, under section one (a) of this Act, undertaken to make to the council of any county district payment of an annual contribution of the amount of six pounds ten shillings, or
- (b) has, under section two (b) of this Act, undertaken to make to the council of a county district payment of an annual contribution of the amount of ten pounds,

the council of the county of which the county district forms part shall make, for each financial year during the period of forty years from the completion of the house, payment of a contribution of the amount of one pound to the council of the county district.

(2) In respect of each house in respect of which the Minister has, under section two of this Act, undertaken to make to the council of a county district payment of an annual contribution of any amount in excess of ten pounds which is payable by virtue of the proviso to subsection (1) of that section, the council of the county of which the county district forms part shall make, for each financial year

during the period of forty years from the completion of the house, payment to the council of the county district of a contribution of the amount of one-pound plus a sum equal to the excess.

(3) If, under section one hundred and thirteen (c) of the principal Act as amended by this Act, the amount or the payment of any contribution payable under section two of this Act to the council of a county district is reduced, or, as the case may be, suspended or discontinued, by the Minister on the ground that the council have failed to discharge the duty imposed upon them by the last-mentioned section to reserve housing accommodation for members of the agricultural population (d), the county council shall not be under any liability to make to the council of the county district, under the preceding provisions of this section, any contribution for any year in respect of which the Minister's contribution is not paid in full.

(4) Subsection (1) of section one hundred and twenty-nine (e) of the principal Act shall have effect as if the reference in paragraph (c) of that subsection to section one hundred and fifteen (f) of that Act included a reference to this section (g).

NOTES TO SECTION 7.

General Note.—This section provides for a contribution by the county council to the county district in respect of each new house provided under this Act in respect of which an Exchequer contribution is payable under s. 1 (3) or s. 2. Under s. 115 of the principal Act, p. 247, *ante*, the liability of the county council to make contributions applied only in the case of rural districts. For present county council contributions see s. 8 of the Housing (Financial and Miscellaneous Provisions) Act, 1946, p. 438, *post*. Under that Act the liability of the county council again operates where the higher Exchequer contribution is payable, described in that Act as the "special standard amount."

(a) **Section 1.**—General Exchequer contribution in respect of new houses under this Act, p. 386, *ante*.

(b) **Section 2.**—Contributions in respect of agricultural housing accommodation, p. 389, *ante*.

(c) **Section 113 of the principal Act.**—Power to withhold Government contributions in event of default, p. 245, *ante*.

(d) **"Agricultural population."**—See definition in s. 115 (2) of the principal Act, p. 247, *ante*.

(e) **Section 129 (1) of the principal Act.**—Amounts to be credited to the Housing Revenue Account, p. 258, *ante*.

(f) **Section 115 of the principal Act.**—Contributions by county councils to the expenses of rural districts, p. 247, *ante*.

(g) **Sub-section (4).**—This effect of this sub-section is to require that contributions under this section by the county council shall be accounted for by the district council in its Housing Revenue Account.

AMENDMENTS AS TO ARRANGEMENTS BETWEEN LOCAL
AUTHORITIES AND OTHER PERSONS.

8. Amendment of section ninety-four of the principal Act.—Subsection (1) of section ninety-four of the principal Act (which enables local authorities to make arrangements with housing associations for the provision of housing accommodation) shall have effect as if for paragraphs (a) to (c) of that subsection there were substituted the following paragraph :—

“(a) to provide any housing accommodation which the local authority are empowered under this Act to provide ;”.

NOTE TO SECTION 8.

General Note.—This section enables a local authority to arrange with a housing association so that the association can provide any housing accommodation that could have been provided by the local authority.

9. Continuation of Government contributions in certain cases where houses become vested in local authorities.—Where, after the commencement of this Act, any house which has, with the assistance of a local authority given under section two of the Housing, &c. Act, 1923, been provided by some person other than a local authority becomes vested in the local authority by reason of any default on the part of that person or his successor in title, then, if at the time of the vesting, the house is a house in respect of which a contribution is payable by the Minister under section one of the said Act, the Minister may continue to make payments by way of that contribution as if the house had been provided by the local authority.

NOTE TO SECTION 9.

General Note.—Under s. 2 of the Housing, etc., Act, 1923, local authorities were enabled to promote the building of houses by giving assistance by way of grants in lump sums, by making annual payments for periods up to twenty years and by giving undertakings to provide, during a period specified, any part of the periodical sums payable to a building society or other body or person, by way of interest on or repayment of advances made for the purpose of building a house or purchasing a house the construction of which was begun after the 25th April, 1923. Houses so provided attracted an Exchequer contribution under s. 1 of that Act payable for twenty years. This section makes that contribution continue to be payable where the house has vested in the local authority through a default of the owner. The procedure under the 1923 Act was that the local authority had to submit proposals as to the assistance they proposed to give to the Minister for approval. By s. 1 of the Housing (Financial Provisions) Act, 1933 (26 Halsbury's Statutes 646), the Minister's power to make contribution under s. 1 of the 1923 Act was discontinued save in respect of proposals made before the 7th December, 1932.

These Acts are not reprinted in this edition. They are important only in respect of contributions already undertaken to be made. For the text of the 1923 Act see 13 Halsbury's Statutes 984.

TRANSITIONAL AND SUPPLEMENTARY PROVISIONS.

10. Transitional provisions.—(1) No contribution shall, under any of the provisions of sections one hundred and five to one hundred and eight (*a*) of the principal Act or under subsection (2) or subsection (3) of section one hundred and fifteen (*b*) of that Act, be payable by the Minister or a county council in respect of any new house completed after the beginning of the year nineteen hundred and thirty-nine.

(2) Any house provided by a local authority, with the approval of the Minister, by way of housing accommodation other than such as is mentioned in paragraph (*a*) of subsection (5) of section one (*c*) of this Act, being a house for the erection of which no contract has been entered into by that authority before the third day of February nineteen hundred and thirty-eight, shall be treated for the purposes of this Act as if it were a house completed after the beginning of the year nineteen hundred and thirty-nine, notwithstanding that it was in fact completed before the beginning of that year.

(3) Where, by virtue of the preceding provisions of this section, a contribution which the Minister or a county council would otherwise be required or authorised by the principal Act to make is not payable, any duty or power of the Minister or the council to give an undertaking to make such a contribution shall cease.

Any such undertaking which has been given by the Minister or a county council before the date of the passing of this Act shall, if and so far as it relates to a house in respect of which a contribution becomes payable under section one (*d*) or section two (*e*) of this Act by the Minister or the county council, be deemed for the purpose of the principal Act not to have been given; and the obligations to contribute which are imposed on local authorities by section one hundred and fourteen (*f*) of that Act shall be limited accordingly.

NOTES TO SECTION 10.

General Note.—This puts a term to the power to make contributions under the principal Act. No Exchequer contributions under that Act are payable in respect of any houses completed after the beginning of 1939; and in the case of houses provided for the abatement of overcrowding or for

the accommodation of persons displaced by re-development otherwise than from unfit houses the subsidy under this Act is payable where no contract for the erection of such houses had been entered into before the 3rd February, 1938.

(a) **Sections 105 to 108 of the principal Act.**—Power to make Government contributions, pp. 235 *et seq.*, *ante*.

(b) **Sections 115 (2) and (3) of the principal Act.**—Contributions by county councils towards housing in rural districts, p. 247, *ante*.

(c) **Section (1) 5 (a).**—The provision of housing accommodation for persons displaced from unfit houses by demolition or closing orders ; or by action taken in respect of clearance or improvement areas ; or displaced from such houses by the carrying out of a re-development plan, p. 387, *ante*.

(d) **Section 1.**—General Exchequer contributions under this Act, p. 386, *ante*.

(e) **Section 2.**—Contributions in respect of agricultural housing accommodation, p. 389, *ante*.

(f) **Section 114 of the principal Act.**—Obligation of the local authority to make contribution from the general rate fund where an Exchequer contribution is payable, p. 246, *ante*.

11. Interpretation, and construction of Act with principal Act.—(1) In this Act—

(a) the expression “ the principal Act ” means the Housing Act, 1936 ; and

(b) subject as hereinafter provided, the expression “ block of flats ” (a) means a building which contains two or more flats, and which consists of three or more storeys exclusive of any storey constructed for use for purposes other than those of a dwelling ;

and (without prejudice to the operation of subsection (3) of section one hundred and eighty-eight (b) of the principal Act) any reference in this Act to a house shall be construed as including a reference to a flat :

Provided that, for the purposes of this Act, a building shall, notwithstanding that it does not in all parts exceed two storeys in height, be deemed to be a building of three storeys, if the Minister is satisfied that the total accommodation provided in that building is not less than the accommodation which could have been provided in a building on the same superficial area if the building had in all parts been of three storeys.

(2) This Act shall be construed as one with the principal Act ; and in the principal Act the expression “ the Housing Acts ” shall, unless the context otherwise requires, be construed as including this Act.

NOTES TO SECTION 11.

(a) "**Block of flats.**"—This definition applies also to the Housing (Financial and Miscellaneous Provisions) Act, 1946. See s. 25 (1) of that Act, p. 459, *post*.

(b) **Section 188 (3) of the principal Act.**—"S. 188 (3).—For the purposes of any provision of this Act relating to the provision of housing accommodation, the expression 'house' includes, unless the context otherwise requires, any part of a building which is occupied or intended to be occupied as a separate dwelling."

12. Short title, citation and extent.—(1) This Act may be cited as the Housing (Financial Provisions) Act, 1938; and the principal Act and this Act may be cited together as the Housing Acts, 1936 and 1938.

(2) This Act shall not extend to Scotland or to Northern Ireland.

SCHEDULE.

(Section 1 (2).)

PROVISIONS FOR ASCERTAINING THE VALUE OF CERTAIN SITES, AND THE AMOUNT OF GOVERNMENT CONTRIBUTIONS IN RESPECT OF FLATS IN BLOCKS ON SUCH SITES.

1. The annual amount of any contribution which, by virtue of subsection (2) of section one of this Act, is payable under that section in respect of a flat shall, if the flat is provided in a block of flats on a site of such cost as is specified in the first column of the following Table, be the corresponding sum specified in the second column of that Table :—

Table.

Where the cost per acre of the site as developed—	£	s.	d.
exceeds £1,500 but does not exceed £4,000	11	0	0
exceeds £4,000 but does not exceed £5,000	12	0	0
exceeds £5,000 but does not exceed £6,000	13	0	0
exceeds £6,000 but does not exceed £8,000	14	0	0
exceeds £8,000 but does not exceed £10,000	15	0	0
exceeds £10,000 but does not exceed £12,000	17	0	0
exceeds £12,000	17	0	0 increased by £1 os. od. for each additional £2,000, or part of £2,000, in the cost per acre of the site as developed :

Provided that the annual amount of the contribution payable by virtue of this Schedule in respect of any one flat shall not exceed twenty-six pounds.

2. For the purposes of this Act the cost of a site as developed means the cost, or, in the case of a site not purchased by the local authority under any enactment relating to housing, the value as certified by the Minister, of the site, including—

- (a) any such expenses as in the opinion of the Minister are requisite for making the site available for the purpose of the provision of the flats, being expenses incurred by the local authority in the construction or widening of streets, the construction of sewers or the execution of any special works rendered necessary by the physical characteristics of the land, and
- (b) any such expenses incurred in respect of other matters as the Minister, with the consent of the Treasury, may determine to be expenses properly forming part of the cost of making the site available for that purpose.

The amount of the expenses to be included under this paragraph shall be such as may be estimated by the authority and approved by the Minister.

3. In determining the number of acres in a site, any land which is acquired for the purpose of the provision of the flats, and which is used as new street space on which the block of flats will abut, shall be deemed to form part of the site.

4. If the Minister thinks fit so to determine in relation to any two or more buildings, each containing two or more flats, on sites each of which is contiguous with the other or another, as the case may be, or is superficially separated therefrom by a street or public highway only, the several buildings shall, for the purposes of this Schedule, be treated as if they were one building on a single site the cost of which as developed was the sum obtained by adding together the cost of each of the actual sites as developed.

HOUSING (TEMPORARY PROVISIONS) ACT, 1944

[7 & 8 Geo. 6, Ch. 33]

An Act to extend the making of contributions under section one of the Housing (Financial Provisions) Act, 1938, as respects new housing accommodation provided by local authorities before the first day of October, nineteen hundred and forty-seven; and to suspend temporarily the holding of local inquiries in respect of certain compulsory purchase orders.

[3rd August 1944.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. Contributions to be made in respect of new housing accommodation provided by local authorities before specified date.—As respects any new house completed after the passing of this Act and before the first day of October, nineteen hundred and forty-seven, by way of housing accommodation provided by a local authority, the Housing (Financial Provisions) Act, 1938 (which provides for contributions out of the Exchequer and by local authorities in respect of certain housing accommodation provided by local authorities) shall, as amended by any subsequent enactment, apply as if so much of section one thereof as limits the operation of that section to such housing accommodation as is specified in subsection (5) of that section (namely, accommodation for housing persons displaced from insanitary houses or from clearance or improvement areas or by the carrying out of redevelopment plans, and accommodation required for the abatement of overcrowding) were omitted.

NOTE TO SECTION 1.

General Note.—The effect of this section was to make Exchequer contributions payable in respect of any housing accommodation provided by a local authority and approved by the Minister under the Housing (Financial Provisions) Act, 1938, p. 386, *ante*, in the period from the 3rd August, 1944, to the 1st October, 1947. By s. 9 of the Housing (Financial and Miscellaneous Provisions) Act, 1946, p. 439, *post*, however, subsidies under the 1946 Act are payable in respect of houses approved by the Minister on or after the 3rd August, 1944. There is no limitation of subsidies to houses provided for the purposes of s. 1 (5) of the Housing (Financial Provisions) Act, 1938, in the Act of 1946.

2. Compulsory purchase orders : temporary suspension of local inquiries.—Notwithstanding anything in the First Schedule to [the Acquisition of Land (Authorisation Procedure) Act, 1946,] *the Housing Act, 1936*, in the case of a compulsory purchase order under Part V of [the Housing Act, 1936] *that Act* submitted to the Minister after the date of the passing of this Act and before the expiration of two years from that date, where any objection is made to the order and is not withdrawn, the Minister may, after considering the objection, confirm the order (with or without modification) without [public local inquiry or hearing] *causing a public local inquiry to be held*.

NOTE TO SECTION 2.

General Note.—The words in square brackets were inserted by, and the words in italics repealed by, the Fourth Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, p. 695, *post*. This section has expired by lapse of time ; but under its provisions the case of *Re Mowsley (No. 1)*

Compulsory Purchase Order, 1944 (1946), 175 L. T. 101; *sub nom. Stafford v. Minister of Health*, 110 J. P. 210, has decided that the Minister is still bound to act in accordance with the dictates of "natural justice" even where he is not required to hold an inquiry.

3. Short title, construction, citation and extent.—

(1) This Act may be cited as the Housing (Temporary Provisions) Act, 1944.

(2) This Act shall be construed as one with the Housing Act, 1936; and in that Act the expression "the Housing Acts" shall, unless the context otherwise requires, be construed as including this Act.

(3) The Housing Acts, 1936 and 1938, and this Act may be cited together as the Housing Acts, 1936 to 1944.

(4) This Act shall not extend to Scotland or to Northern Ireland.

HOUSING (TEMPORARY ACCOMMODATION) ACT, 1944

[7 & 8 Geo. 6, Ch. 36]

ARRANGEMENT OF SECTIONS.

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An Act to make provision for temporary accommodation, and for purposes connected therewith.

[10th October 1944.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. Provision for making structures for temporary housing available to housing authorities.—With a view to enabling local authorities for the purposes of Part V of the Housing Act, 1936 (in this Act referred to as “the principal Act”) to provide as a matter of urgency temporary housing accommodation for the purposes of the discharge of their duties under the said Part V, the Minister of Health (in this Act referred to as “the Minister”) may, by arrangements made by him with the Minister of Works for the manufacture or construction thereof and for the erection thereof on land acquired or appropriated for the purposes of the said Part V by any such authority, make structures for use by any such authority for providing such accommodation available to the authority on such terms as the Minister may agree with them :

Provided that, unless it is otherwise hereafter determined by Parliament, no structures shall be made available under this section after the first day of October, nineteen hundred and forty-seven, other than structures intended to be made available before that date whose manufacture or construction was put in hand at a time when it appeared to the Minister that it would be practicable to make them available before that date.

NOTE TO SECTION 1.

General Note.—Under Part V of the principal Act, p. 191, *ante*, it is the duty of the local authority to consider the housing needs of the working classes in their district and make proposals for the provision of new accommodation. Under this section the provision of such accommodation may be made by the erection of temporary structures if they are erected or intended to be erected by the 1st October, 1947. The structures will be supplied to the authorities by the Minister of Health and will be erected by the Minister of Works on sites provided by the local authority.

2. Removal of structures made available under s. 1.—(1) The Minister may cause a structure made available under the preceding section, together with any fittings forming part thereof, to be taken down and removed under arrangements made by him with the Minister of Works, on giving to the local authority such notice of his intention in that behalf as may be provided for by the terms agreed and shall do so on being requested to do so by the local authority at any time after the expiration of ten years from the passing of this Act unless it appears to the Minister that housing conditions require that it should remain, but whilst remaining on the land the structure and any such fittings as aforesaid shall be deemed to be fixtures forming part of the freehold of the land.

(2) Where the Minister causes a structure to be removed under this section, he may, if the local authority so request, cause to be executed under arrangements made as aforesaid all such works as may be required for clearing the land of any substructure or other materials affixed to the land for the purposes of the erection of the structure.

(3) Structures, fittings and materials removed under this section shall be held or disposed of for the benefit of the Crown in such manner as the Minister may determine.

NOTE TO SECTION 2.

General Note.—The intention of this section is that the Minister will arrange for the removal of the temporary structures so soon after the 10th October, 1954, as the availability of permanent housing accommodation warrants it.

3. Terms on which structures may be made available under s. 1.—(1) The terms on which a structure may be made available under section one of this Act shall include provision for the making of a payment by the local authority to the Minister for each financial year, or part of a financial year, during which the structure remains on the land :

Provided that, in the case of a structure made available for erection on land of exceptionally high value, the said terms may either—

- (a) not include any such provision, or
- (b) not include any such provision but on the contrary provide for the making of a contribution by the Minister out of moneys provided by Parliament towards expenses incurred by the local authority in connection with the provision and maintenance of housing accommodation in the structure.

(2) The said terms may include any such provisions with respect to the use, management, or maintenance of the structure in question, to the execution by or at the expense of the local authority of any works in connection with the erection of the structure or with the provision of housing accommodation therein, or to other relevant matters, being provisions consistent with the provisions of this Act and of the principal Act, as may appear to the Minister to be expedient.

NOTE TO SECTION 3.

General Note.—The terms on which structures may be made available are to be found in Appendix IV of the Joint Memorandum by the Ministries of Health and Works of November 1944, entitled " Temporary Accommodation " (reprinted August 1945).

Briefly the local authority is to provide the site, make roads and provide services. The substructures, paths, fences, and works within the curtilages will be provided by arrangement with the Ministry of Works. In respect of each house the local authority will pay in each year the sum of £23 10s. (in the case of a rural district the sum will be £21 10s.). The incomings and outgoings will be accounted for in the Housing Revenue Account (see s. 128 of the principal Act, p. 256, *ante*), and the letting and management is to be in accordance with Part V of the principal Act (see ss. 83 to 87, pp. 202 *et seq.*, *ante*). The authority are responsible for repairs. Where the annual charges to be borne by the authority are appreciably in excess of £4 per house the authority's payment may be reduced by 80 per cent. of the amount by which such charges exceed £4. Where the amount of the reduction exceeds £23 10s. (or £21 10s.) the Minister will make an annual contribution of the amount by which the reduction exceeds £23 10s. (£21 10s.). Where, after all the houses to be provided have been occupied, the annual call on the Housing Revenue Account exceeds £8 (or £6 in a rural district) the Minister may make such adjustments as he thinks necessary. Payments to the Minister will be effected by the withholding of an equivalent from any Exchequer contributions otherwise payable to the authority. Finally, three months' notice will be given by the Minister before any structure is removed.

4. Adaptation of certain provisions of principal Act.—(1) The provisions of the principal Act relating to houses provided by a local authority under Part V of that Act shall, as respects the period during which structures made available under section one of this Act remain on the land, have effect in relation to such structures, and housing accommodation provided in such structures shall be deemed to be provided under the said Part V.

(2) In paragraph (a) of section seventy-three of the principal Act (which confers on a local authority power to acquire land as a site for the erection of houses) the reference to a site for the erection of houses shall be deemed to include a reference to a site for the erection of structures which may be made available to the local authority under section one of this Act, and any land acquired under that paragraph as such a site shall be deemed to be land acquired for the purposes of the said Part V.

(3) In paragraph (b) of the proviso to subsection (4) of section one hundred and three of the principal Act (which provides that, without prejudice to the powers conferred on a metropolitan borough council by that Act with respect to the provision of housing accommodation within their borough, the London County Council shall be a local authority for the purposes of Part V of the principal Act as respects any part of the administrative county of London, other than the City of London, for the purpose of providing such housing accommodation as is mentioned in subparagraphs (i) to (iii) of that paragraph) the following subparagraph shall be inserted, that is to say—

“(iv) temporary accommodation in structures made available under section one of the Housing (Temporary Accommodation) Act, 1944.”

(4) The Minister's making any such arrangements as aforesaid shall not, nor shall any approval given by him in connection with the execution of any such arrangements or the use of any structures the subject thereof, be treated as an approval by him for the purposes of subsection (2) of section one hundred and thirty-eight of the principal Act (which provides that, where the Minister has approved plans and specifications inconsistent in certain respects with building byelaws, proposals for such works as are therein mentioned involving departure from the byelaws only to the like extent as in the case of the plans and specifications approved by the Minister may be carried out).

NOTE TO SECTION 4.

General Note.—Temporary houses are subject to the provisions of management and control contained in ss. 83 to 87 of the principal Act, pp. 202 *et seq.*, *ante*. Lands required for sites for the erection of temporary structures may be acquired under s. 73 of the principal Act, p. 194, *ante*. By sub-s. (3) the London County Council are made a local authority for the purposes of this Act (see s. 103 of the principal Act, p. 230, *ante*, as amended by this sub-section). Sub-s. (4) prevents s. 138 (2) of the principal Act, p. 271, *ante*, in cases where temporary houses inconsistent with byelaw requirements are erected, operating to provide a wholesale byelaw exemption in the area. For provisions relating to temporary housing accommodation provided in temporary wartime buildings see s. 12 of the Housing (Financial and Miscellaneous Provisions) Act, 1946, p. 443, *post*.

5. Power to enter on land to ascertain whether it is suitable for erection of structures to be made available under s. 1.—(1) A person authorised in writing by a local authority for the purposes of Part V of the principal Act may at all reasonable times, on production if required of his authority, enter upon land which the local authority are authorised to purchase compulsorily for the purposes of the said Part V, or the acquisition of which for those purposes is under consideration by them, for the purpose of determining whether the land is suitable as a site for the erection of structures which may be made available to the local authority under section one of this Act and the plan on which any such structures should be laid out thereon, and of surveying, taking levels or probing or boring for that purpose, or for the purpose of estimating the value of the land :

Provided that if the land is occupied, admission thereto

shall not be demanded as of right unless twenty-four hours notice of the intended entry has been given to the occupier.

(2) A local authority shall make to any person who sustains any damage by reason of anything done, in exercise of powers conferred by this section, by a person authorised by them, compensation in respect thereof of an amount to be determined by agreement between them and that person, or, in default of agreement, by an arbitrator to be appointed, in default of agreement, by the Minister.

NOTE TO SECTION 5.

General Note.—This section provides authority to enter on and survey any lands which the local authority contemplate purchasing for the purpose of providing temporary accommodation. This power should be compared with the powers of entry for purposes of survey and valuation given under s. 157 (a) of the principal Act, p. 286, *ante*. Under the principal Act the powers of entry can only be exercised after compulsory purchase has been authorised. By sub-s. (2) where damage is caused as a result of entry compensation is to be paid.

6. Temporary powers for obtaining possession of land for erection of structures to be made available under s. 1.—(1) During the period between the passing of this Act and the end of the year nineteen hundred and forty-five the provisions of the next succeeding subsection shall have effect for enabling a local authority for the purposes of Part V of the principal Act to obtain possession of land for use as a site for structures to be made available under section one of this Act.

(2) A local authority for the said purposes may enter upon and take possession of land as to which the Minister is satisfied that it is required for use as aforesaid if authorisation (a) in writing in that behalf has been given to them in accordance with the following requirements, that is to say—

- (a) the authority must have served, in manner mentioned in the next succeeding subsection, on every owner and occupier of any of the land in question a notice in writing stating that they have made or intend to make an application to the Minister for an authorisation under this subsection as respects land described in the notice, being land consisting of or comprising the land in question, and that representations which any of the persons required to be served desires to make must be made to the Minister in writing within fourteen days from the date of the service of the notice on him ; and

- (b) the Minister must, before giving the authorisation, have considered any representations made to him as aforesaid by any of the persons aforesaid (b).

(3) Such a notice as is mentioned in the last preceding sub-section shall be deemed to be duly served—

- (a) on a person being an owner or occupier of any of the land in question if such a notice, addressed to him by name, is delivered to him or left at, or sent by post in a prepaid letter to, his usual or last known place of abode ;
- (b) on a person being an owner or occupier of any premises comprised in the land in question which appear to the local authority to be separately occupied, if such a notice, addressed to “ the owner and the occupier ” of the premises (describing them), is delivered to some person on the premises, or, if there is no person on the premises to whom it can be delivered, is affixed to some conspicuous object on the premises ;
- (c) on all persons being owners or occupiers (if any) of premises comprised in any part of the land in question which appears to the local authority to be unoccupied, if such a notice, addressed to “ the owners and any occupiers ” of that part of the land (describing it), is affixed to some conspicuous object on that part of the land (c).

(4) Where a local authority have taken possession of land pursuant to an authorisation under this section, they shall by virtue of this section have power to acquire the land compulsorily as if they had been authorised so to do by an order under section seventy-four of the principal Act (*d*), made, submitted and confirmed in accordance with the provisions of the First Schedule thereto, incorporating the enactments required to be incorporated in such an order with the modifications and adaptations appropriate to such an order, and the authority shall as soon as may be after taking possession of the land serve notice under section eighteen of the Lands Clauses Consolidation Act, 1845 (*e*), of their intention to take the land and shall in all respects be liable as if such notice had been given on the date of their entering on the land, except that the power conferred by subsection (2) of section five of the Acquisition of Land (Assessment of Compensation) Act, 1919 (*f*), to withdraw such a notice shall not be exercisable.

(5) A power to enter on and take possession of land conferred by an authorisation given under this section may, save as hereinbefore in this section provided, be exercised without notice to or the consent of any person and without compliance with sections eighty-four to ninety of the Lands Clauses Consolidation Act, 1845, but subject to payment of the like compensation, and interest on the compensation agreed or awarded, as the local authority would have been required to pay if those provisions had been complied with.

(6) While a local authority are in possession of land pursuant to an authorisation given under this section,—

(a) the land may be used for the erection thereon of structures made available under section one of this Act, and all works required for that purpose may be executed thereon ;

(b) the land may be used for the provision of housing accommodation in such structures erected thereon, and the authority may make contracts for the occupation of the land and such structures erected thereon by the persons for whom housing accommodation is to be provided therein ;

(c) any right of way over land, or other right relating thereto enjoyed by any person whether by virtue of an interest in the land or otherwise, shall, in so far as the exercise thereof would interfere with the use of the land as aforesaid or the execution of any such works as aforesaid, not be exercisable (g).

(7) In this section the expression “ owner ” (h) has the meaning assigned to it by section one hundred and eighty-eight of the principal Act.

NOTES TO SECTION 6.

General Note.—This section expired on the 31st December, 1945 ; but similar provisions are now to be found in s. 2 and the Third Schedule of the Acquisition of Land (Authorisation Procedure) Act, 1946 (see pp. 657, 683, *post*). Authorisations under this section were not subject to the provisions relating to the operation and validity of compulsory purchase orders contained in the Second Schedule to the principal Act, p. 329, *ante*. This is so notwithstanding the provisions contained in the first part of sub-s. (4). In *R. v. Minister of Health, Ex parte Waterlow & Sons, Ltd.*, [1946] K. B. 485 ; [1946] 2 All E. R. 189 ; 110 J. P. 319, it was held that *certiorari* was available to challenge the order. The question as to whether the authorisation was an administrative act was not argued in that case. In view of sub-s. (2) (b) and *Re Mowsley (No. 1) Compulsory Purchase Order, 1944* (1946), 175 L. T. 101 ; *sub nom. Stafford v. Minister of Health*, 110 J. P. 210, it is submitted that the Minister's decision is “ quasi judicial.”

(a) **Authorisation.**—This expression is also used in s. 2 of the Acquisition of Land (Authorisation Procedure) Act, 1946 ; see p. 657, *post*.

(b) "**Consideration of representation.**"—See para. (3) of the Third Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, p. 684, *post*. See also *Board of Education v. Rice*, [1911] A. C. 179; 75 J. P. 393; *Local Government Board v. Arlidge*, [1915] A. C. 120; 79 J. P. 97; *Errington v. Minister of Health*, [1935] 1 K. B. 249; 99 J. P. 15; Digest Supp.; *Stafford v. Minister of Health (supra)*, and *R. v. Minister of Health, Ex parte Waterlow & Sons, Ltd. (supra)*.

(c) **Sub-sections (2) and (3).**—These sub-ss. are reproduced in para. (2) (1) (b) and 2 of the Third Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, p. 684, *post*.

(d) **Section 74 of the principal Act.**—Mode of acquisition of land for the provision of accommodation, p. 195, *ante*.

(e) **Section 18, Lands Clauses Consolidation Act, 1845.**—Notice of intention to take lands, p. 797, *post*.

(f) **Section 5 (2), Acquisition of Land (Assessment of Compensation) Act, 1919**, and see p. 730, *post*. Power to withdraw notice to treat after service of notice of claim. Power to withdraw notice to treat is also excluded after entry under s. 2 (4) of the Acquisition of Land (Authorisation Procedure) Act, 1946, p. 658, *post*.

(g) **Sub-section (6) (c).**—As to other powers as to extinction of rights of way, see s. 46 of the principal Act, p. 147, *ante*; and s. 3 of the Acquisition of Land (Authorisation Procedure) Act, 1946, p. 662, *post*.

(h) "**Owner.**"—In s. 188 of the principal Act, p. 311, *ante*, "owner means a person other than a mortgagee not in possession, who is entitled to dispose of the fee simple of the building or land, whether in possession or in reversion, and includes also a person holding or entitled to the rents and profits of the building or land under a lease or agreement, the unexpired term whereof exceeds three years."

[S. 7. *Application to Scotland.*]

8. Financial provisions.—(1) The Treasury may issue out of the Consolidated Fund of the United Kingdom sums not exceeding, unless it is otherwise hereafter determined by Parliament, [two hundred million] *one hundred and fifty million* pounds to defray the expenses incurred by the Minister of Works in connection with the manufacture, construction or erection of structures under arrangements made as aforesaid.

(2) For the purpose of providing sums to be issued under the preceding subsection, the Treasury may at any time, if they think fit, raise money in any manner in which they are authorised to raise money under the National Loans Act, 1939, and any securities created and issued to raise money under this subsection shall be deemed for all purposes to have been created and issued under the National Loans Act, 1939 (a).

(3) The following provisions of this subsection shall have effect as respects the repayment of sums issued under subsection (1) of this section, that is to say:—

- (a) the aggregate of the sums so issued in any financial year shall be repaid into the Exchequer, as mentioned in the next succeeding paragraph, with interest thereon at the rate of two and a half per cent. per annum, the said interest accruing, as respects the whole aggregate, from such date in the financial year in which the sums are issued as the Treasury may determine ;
 - (b) the said aggregate shall be repaid by ten equal annual instalments, of principal and interest combined, falling due on the anniversary of the date determined under the preceding paragraph, the first such instalment falling due in the financial year next following the financial year in which the sums in question were issued ;
 - (c) any instalment to be paid into the Exchequer under the last preceding paragraph shall be paid, as to such part thereof as the Treasury may direct out of moneys provided by Parliament for the service of the Ministry of Health, and as to the remainder thereof out of moneys so provided for the service of the Department of Health for Scotland.
- (4) The sums paid into the Exchequer under the last preceding subsection shall be issued out of the Consolidated Fund of the United Kingdom at such times as the Treasury may direct and shall be applied by the Treasury as follows:—
- (a) so much thereof as represents principal shall be applied in redeeming or paying off debt of such description as the Treasury think fit ;
 - (b) so much thereof as represents interest shall be applied to the payment of interest which would, apart from this paragraph, have fallen to be paid out of the permanent annual charge for the National Debt.
- (5) Expenses incurred in the removal of structures, fittings or materials under section two of this Act shall be defrayed out of moneys provided by Parliament, and the proceeds of any disposal thereof under that section shall be paid into the Exchequer.
- (6) Receipts of the Minister under subsection (1) of section three of this Act shall be paid into the Exchequer.
- (7) The Minister of Works shall, as respects each financial year in which sums are issued out of the Consolidated Fund under subsection (1) of this section or in which he incurs expenses as mentioned in that subsection, prepare in such

form and manner as the Treasury may direct an account of sums so issued and received by him and of such expenses incurred by him.

Any account prepared under this subsection shall, on or before the thirtieth day of November next following the expiration of the financial year in question, be transmitted to the Comptroller and Auditor General who shall examine and certify the account and lay copies thereof, together with his report thereon, before Parliament.

NOTES TO SECTION 8.

General Note.—This section contains the detailed provisions for the financing of the scheme by the Exchequer. The sums which can be issued out of the Consolidated Fund by sub-s. (1) was increased from £150,000,000 to £200,000,000 by s. 5 of the Building Materials and Housing Act, 1945, p. 418, *post*. See also ss. 1 to 4 of that Act, pp. 415 *et seq.*, *post*.

(a) **National Loans Act, 1939.**—See 32 Halsbury's Statutes 1235.

9. Short title, construction, citation and extent.—

(1) This Act may be cited as the Housing (Temporary Accommodation) Act, 1944.

(2) This Act, in its application to England, shall be construed as one with the principal Act, and may be cited together with the Housing Acts, 1936 and 1938, as the Housing Acts, 1936 to 1944.

(3) This Act, in its application to Scotland, shall be construed as one with the Housing (Scotland) Acts, 1925 to 1938, and may be cited together with those Acts as the Housing (Scotland) Acts, 1925 to 1944.

(4) This Act shall not extend to Northern Ireland.

NOTE TO SECTION 9.

General Note.—This section does not enact that the Act shall be included within the expression "the Housing Acts" as used in the principal Act. See s. 11 (2) of the Housing (Financial Provisions) Act, 1938, p. 399, *ante*; and para. (1) of the Third Schedule to the Housing (Financial and Miscellaneous Provisions) Act, 1946, p. 464, *post*.

BUILDING MATERIALS AND HOUSING ACT, 1945

[9 & 10 Geo. 6, Ch. 20]

ARRANGEMENT OF SECTIONS.

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An Act to make financial provision for the purpose of facilitating the production, equipment, repair, alteration and acquisition of houses and other buildings, and to make provision for limiting the price for which certain houses may be sold and the rent at which certain houses may be let.

[20th December 1945.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

EXPENSES OF THE MINISTER OF WORKS.

1. Advances to Minister of Works.—(1) Subject to the provisions of this Act, the Treasury may, out of the Consolidated Fund of the United Kingdom or the growing produce thereof, advance money to the Minister of Works (hereinafter referred to as “ the Minister ”) for the purpose of defraying expenses of the Minister in performing any of the following functions, that is to say—

- (a) purchasing building materials and purchasing permanent equipment for buildings ;
- (b) making and carrying out arrangements for the production and distribution of any such materials or equipment ; and
- (c) carrying out, on behalf of and at the request of any local authority, work undertaken by the authority in connection with the exercise of their powers to provide housing accommodation under Part V of the Housing Act, 1936.

(2) No sums shall be advanced under this section after the end of September, nineteen hundred and fifty.

(3) The total amount advanced under this section, exclusive of any sums which have been repaid, shall not at any time exceed one hundred million pounds.

(4) Any advances made under this section shall be made upon such terms as to the payment of interest, and shall be repayable at such times, as the Treasury may determine.

(5) For the purpose of providing money to be advanced under this section, the Treasury may at any time, if they think fit, raise money in any manner in which they are authorised to raise money under the National Loans Act, 1939 ; and any securities created and issued to raise money under this subsection shall be deemed for all purposes to have been created and issued under the National Loans Act, 1939.

(6) In this section, the expression “ local authority ” (a) means any local authority for the purposes of the Housing Acts, 1936 to 1944.

NOTES TO SECTION 1.

General Note.—This section empowers the advance of monies to the Minister of Works for the purchase, production and distribution of building materials and equipment, and for the carrying out of work on behalf of local authorities for the provision of housing accommodation (including temporary accommodation) under Part V of the Housing Act, 1936 ; see ss. 71 to 104, pp. 191 *et seq.*, *ante*. Any advances made must be made before the 1st October, 1950, and at no time must the sums advanced exceed £100,000,000.

By s. 18 (4) of the Housing (Financial and Miscellaneous Provisions) Act, 1946, p. 452, *post*, sums may be advanced to the Minister of Works for the purpose of carrying out work on behalf of housing associations, set up under arrangements made by the Minister of Health after the 18th April, 1946, which the association has undertaken on behalf of a local authority under s. 94 of the Housing Act, 1936, p. 224, *ante*.

(a) "**Local Authority.**"—See s. 1 of the Housing Act, 1936, p. 47, *ante*; and in relation to London see s. 103 of that Act, p. 230, *ante*. See also, as to London, s. 4 (3) of the Housing (Temporary Accommodation) Act, 1944, p. 406, *ante*.

2. The Building Materials and Housing Fund.—

(1) There shall be established, in accordance with directions of the Treasury, a fund, to be called the Building Materials and Housing Fund, which shall, subject to the provisions of this Act, be under the control and management of the Minister.

(2) There shall be paid into the Fund—

- (a) all sums advanced to the Minister under this Act ; and
- (b) to such extent as the Treasury may direct, any receipts of the Minister in connection with the performance of the functions specified in section one of this Act.

(3) There shall be paid out of the Fund—

- (a) any sums paid by the Minister, whether on account of principal or interest, in respect of advances under this Act ; and
- (b) to such extent as the Treasury may direct, any expenses of the Minister in performing the functions specified in section one of this Act.

(4) The Fund shall be closed at such time after the end of September, nineteen hundred and fifty, as the Treasury may direct, and upon the closing of the Fund the provisions of this Act relating to repayments into and out of the Fund, except those provisions which expressly relate to the sums standing to the credit of the Fund when it is closed, shall cease to have effect.

(5) The Minister shall, as respects each financial year beginning with that in which sums are first advanced to him under this Act and ending with that in which the Fund is closed, prepare an account of receipts into and payments out of the Fund in such form and manner as the Treasury may direct.

Any account prepared under this subsection shall, on or before the thirtieth day of November next following the

expiration of the financial year in question, be transmitted to the Comptroller and Auditor General, who shall examine and certify the account and lay copies thereof, together with his report thereon, before Parliament.

NOTE TO SECTION 2.

General Note.—This section provides for the establishment of a " Building Materials and Housing Fund " into which is to be paid any advances made to the Minister of Works and any receipts of the Minister received in the course of his functions. From this fund the Minister is to make such advances as he is empowered under the Act to make, and meet his expenses under s. 1. This fund will be closed after the 30th September, 1950; but until then in each financial year the accounts of the fund are to be laid before Parliament.

3. Payments into Building Materials and Housing Fund by the Minister of Health.—(1) If the Minister has purchased building materials consisting of structures ready for erection as houses, and the Minister of Health, being satisfied that the cost of constructing houses from those materials substantially exceeds the cost of constructing houses of a similar size by traditional methods, has approved arrangements made by the Minister—

- (a) for selling such building materials to local authorities at prices fixed otherwise than by reference to their cost; or
- (b) for constructing houses from such materials for local authorities at charges which are less than the full cost of construction;

the Minister of Health shall, out of moneys provided by Parliament, make such payments into the Building Materials and Housing Fund as the Treasury may determine to be necessary for the purpose of securing that the receipts of the Fund are no less than they would have been if the arrangements had been such as to secure that the Minister would incur no loss and make no profit in the execution thereof.

(2) For the purposes of this section, the cost of constructing a house shall include the cost of the building materials used in the construction thereof.

NOTE TO SECTION 3.

General Note.—Where the Minister of Health has approved the provision by the Minister of Works of non-traditional accommodation the cost of which substantially exceeds the cost of construction of traditional accommodation the Minister of Health insures the Building Materials and Housing Fund against loss on the provision of such accommodation. See also s. 17 of the

Housing (Financial and Miscellaneous Provisions) Act, 1946, p. 450, *post*, under which the Minister of Health may make capital grants towards substantial excess in cost of a non-traditional structure provided by a local authority.

4. Supplementary provisions as to Building Materials and Housing Fund.—(1) All sums paid by the Minister to the Treasury in respect of advances under this Act, whether on account of principal or interest, shall be paid into the Exchequer.

(2) Any amount standing to the credit of the Building Materials and Housing Fund when it is closed shall be paid into the Exchequer, and, if any sums are then due from the Minister, whether on account of principal or interest, in respect of advances under this Act, shall be applied in or towards the satisfaction of those sums.

(3) If after the Fund has been closed and after account has been taken of the amount, if any, which falls to be applied in accordance with the last preceding subsection, any sum is payable by the Minister, whether on account of principal or interest, in respect of advances under this Act, that sum shall be defrayed out of moneys provided by Parliament.

(4) All sums paid into the Exchequer under this section shall be issued out of the Consolidated Fund of the United Kingdom at such times as the Treasury may direct and shall be applied by the Treasury as follows—

- (a) so much of the said sums as represents interest shall be applied in paying interest which would, apart from this paragraph, have fallen to be paid out of the permanent annual charge for the National Debt ; and
- (b) save as aforesaid, the said sums shall be applied in redeeming or paying off debt of such description as the Treasury think fit.

NOTE TO SECTION 4.

General Note.—Provision is made in this section for the winding up of the Building Materials and Housing Fund and for any deficit to be defrayed out of monies provided by Parliament.

5. Increase of sums available for defraying expenses under 7 & 8 Geo. 6, c. 36.—The limit upon the sums which the Treasury may issue out of the Consolidated Fund of the United Kingdom for the purpose of defraying expenses incurred by the Minister in connection with the

manufacture, construction or erection of structures under arrangements made with him by the Minister of Health or the Secretary of State under section one of the Housing (Temporary Accommodation) Act, 1944, shall be increased by fifty million pounds; and accordingly, in subsection (1) of section eight of that Act, for the words "one hundred and fifty million pounds" there shall be substituted the words "two hundred million pounds."

NOTE TO SECTION 5.

General Note.—This section provides an amendment to s. 8 (1) of the Housing (Temporary Accommodation) Act, 1944, p. 411, *ante*. The sum which may be issued out of the Consolidated Fund to the Minister of Works for the manufacture, construction, and erection of temporary structures under s. 1 of that Act, p. 404, *ante*, is increased from £150,000,000 to £200,000,000.

POWERS OF LOCAL AUTHORITIES TO PROVIDE FINANCIAL ASSISTANCE.

6. Extension of powers of local authorities to give financial assistance towards acquisition, construction, etc., of houses.—(1) The limit fixed by subsection (1) of section ninety-two of the Housing Act, 1935 (*a*), on the market value of houses in respect of which an advance may be made under the Small Dwellings Acquisition Acts, 1899 to 1923 (*b*), shall, in relation to an advance made after the date of the passing of this Act, be increased from eight hundred pounds to fifteen hundred pounds.

(2) Subsection (4) of section ninety-one of the Housing Act, 1936 (*c*) (which provides that an advance or guarantee under that section shall not be made or given if the estimated value of the fee simple in possession free from incumbrances of the house in respect of which the advance or guarantee is to be made or given exceeds eight hundred pounds) shall, in relation to an advance or guarantee made or given after the date of the passing of this Act, have effect as if for the words "eight hundred pounds" there were substituted the words "fifteen hundred pounds", and the provisions of that subsection relating to flats shall have effect accordingly.

NOTES TO SECTION 6.

General Note.—The amendments contained in this section increase the limits on the values of houses in respect of which advances made under the Small Dwellings Acquisition Acts, pp. 359 *et seq.*, *ante*, and under s. 91 of the Housing Act, 1936, p. 217, *ante*.

(a) **Section 92 of the Housing Act, 1935.**—This section, which is an amendment of the Small Dwellings Acquisition Acts, was not repealed by the 1936 Act. For text of the section see p. 384, *ante*.

(b) **Small Dwellings Acquisition Acts, 1899 to 1923.**—For text of these Acts see pp. 359, *ante*.

(c) **Section 91 (4) of the Housing Act, 1936.**—See p. 219, *ante*.

RENT AND PURCHASE PRICE OF HOUSES.

7. Limitation of rent and purchase price of houses constructed under certain building licences.—(1)

Where a house has been constructed under the authority of a licence granted for the purposes of a Defence Regulation (hereinafter referred to as a “building licence”) and the licence, whether granted before or after the passing of this Act, has been granted subject to any condition limiting the price for which the house may be sold or the rent at which it may be let, any person who, during the period of four years beginning with the passing of this Act, sells or offers to sell the house for a greater price than the price so limited (hereinafter referred to as “the permitted price”), or, as the case may be, lets or offers to let the house at a rent in excess of the rent so limited (hereinafter referred to as “the permitted rent”), shall be liable on summary conviction to a fine not exceeding the aggregate of—

- (a) such amount as will in the opinion of the court secure that he derives no benefit from the offence; and
- (b) the further amount of one hundred pounds;

or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

(2) For the purposes of this section, a house shall be deemed to have been let at a rent in excess of the permitted rent if the total rent payable by the tenant in respect of any part of the period for which the house is let exceeds the total rent which would have been payable by him in respect of that part of the said period if the house had been let at the permitted rent.

(3) Where a house is sold for a consideration which consists wholly or partly of something other than the payment of a money price for the house, and it appears to the court that the whole of the consideration is capable of being expressed in terms of such a price, the court shall assess the total value of the consideration upon the assumption that the transaction is carried out in accordance with its terms, and the price shall be deemed to be such sum as, if paid

at the time of the sale, would in the opinion of the court represent a benefit equivalent to the said total value.

(4) Where a house is let for a consideration which consists wholly or partly of something other than the payment of a money rent for the house, and it appears to the court that the whole consideration is capable of being expressed in terms of money, the court shall assess the total value of the consideration upon the assumption that the transaction is carried out in accordance with its terms, and shall determine a rent which appears to the court to represent a benefit equivalent to the said total value, and the rent so determined shall be deemed for the purposes of this section to be the rent at which the house was let.

(5) In determining for the purposes of this section the consideration for which a house has been sold or let, the court shall have regard to any transaction with which the sale or letting is associated, and if it appears to the court that the benefits secured by that transaction to the vendor or lessor exceed what they would have been if the house had not been sold or let for the consideration for which it was in fact sold or let, that consideration shall be deemed to be increased by such sum as fairly represents the excess.

(6) Where any person sells, lets, or offers to sell or offers to let a house together with any other property, the court shall, for the purpose of determining whether an offence has been committed against this section, make such apportionment of the consideration as the court thinks fit.

(7) Where proceedings are taken for an offence against this section, the court shall have the following powers, that is to say :—

- (a) where any fine imposed by the court includes any such amount as is mentioned in paragraph (a) of subsection (1) of this section, the court may, if having regard to the circumstances the court thinks it just so to do, direct that the whole or any part of that amount, when paid or recovered, shall be paid over to any person who is shown to the court to have given, or to be liable to give, a consideration in excess of the permitted price, or, as the case may be, in excess of the permitted rent, in respect of the house in question ;
- (b) where any person is convicted of the offence of letting a house at a rent in excess of the permitted rent, the court may, if the interest created by the letting has not expired at the time of the conviction,

make such modifications of the terms and conditions of the letting as in the opinion of the court are necessary for the purpose of securing that the rent payable in respect of periods falling after the date of the conviction does not exceed the permitted rent ; and

- (c) where any person is convicted of the offence of selling a house at a price in excess of the permitted price, the court may, if any sums remain payable on account of the price at the time of the conviction, make such modifications of the terms and conditions of the sale as in the opinion of the court are necessary for the purpose of securing, so far as practicable, that the price does not exceed the permitted price.

(8) Subject to the provisions of the last preceding subsection, the commission of an offence under this section shall not affect the title to any property or the operation of any contract.

NOTE TO SECTION 7.

General Note.—The purpose of this section is to enforce and provide legal sanctions for conditions imposed in licences granted under the Defence Regulations requiring that houses built under such licences shall not be sold or let before the 20th December, 1949, for more than a certain sum. The usual selling price imposed is £1,200 (or £1,300 in the Metropolitan area). Contravention of this section renders the offender liable on summary conviction to a fine and/or imprisonment for a term of three months; such fine can ensure that no benefit is derived from the offence as well as imposing a penalty of a further £100. The Minister has stated that conditional licences are not applicable to the rebuilding of houses which are subject to a cost of works payment. See Circular 50/46 dated the 6th March, 1946.

8. Registration of conditions imposed by building licences, and duties of local authorities.—(1) Where a building licence has been granted, whether before or after the passing of this Act, subject to any condition limiting the price for which a house may be sold or the rent at which it may be let, section fifteen of the Land Charges Act, 1925 (*a*), as amended by the Law of Property (Amendment) Act, 1926 (*b*), shall have effect as if the condition were a local land charge acquired by the local authority in the area of which the house is situated, and it shall be the duty of the proper officer of the local authority to register the condition accordingly.

(2) It shall be the duty of every local authority to take such measures as they think necessary for securing the enforcement, in relation to houses within the area of the authority, of the provisions of this Act relating to the permitted price and permitted rent for houses.

(3) In this section the expression “local authority” means the council of any county borough, county district or metropolitan borough, and the Common Council of the City of London.

NOTES TO SECTION 8.

General Note.—Conditions imposed by building licences are made registrable as local land charges, and the duty of registration is imposed on the local authority.

(a) **Section 15, Land Charges Act, 1925.**—See 15 Halsbury's Statutes 538.

(b) **Law of Property (Amendment) Act, 1926.**—See 15 Halsbury's Statutes 546.

SUPPLEMENTARY.

9. Interpretation.—(1) In this Act the following expressions have the meanings hereby respectively assigned to them—

“Building materials” includes any product which, or a derivative of which, is capable of being used to form part of a building or of any works preparatory or incidental to the provision of a building, or of being used for preserving or finishing a building or a part of a building, and includes any structure ready for erection as a building or as part of a building ;

“Defence Regulation” means a Defence Regulation made under the Emergency Powers (Defence) Acts, 1939 to 1945, and includes any Regulation so made which has continued to have effect, whether with or without variations, under the provisions of any other enactment ;

“Permanent equipment for buildings” means any article which is intended to be provided for permanent enjoyment with a particular building.

(2) For the purposes of this Act, the expenses of the Minister in performing the functions specified in section one of this Act shall be deemed to include any expenses of the Minister which are incidental to the performance of those functions, and shall be deemed to include such amounts as may be determined by the Treasury to be reasonable—

(a) on account of any premises, supplies or services provided by or for the service of any Government department and used in connection with the performance of those functions ; and

- (b) on account of expenses which fall or may ultimately fall to be borne in providing benefits under the Superannuation Acts, 1834 to 1943, in respect of persons who have been employed in connection with the performance of those functions.
- (3) For the purposes of this Act—
 - (a) a person sells a house if he sells or agrees to sell any interest in the house ;
 - (b) a person lets a house if he demises the house or agrees to demise it ; and
 - (c) the expression “ house ” includes a flat, and any structure constructed for use as a dwelling.
- (4) In determining for the purposes of this Act whether any person has sold or offered to sell a house for a price in excess of the permitted price, or has let or offered to let a house at a rent in excess of the permitted rent, any property which, in the absence of express provision, would pass upon a conveyance of the legal estate in fee simple in the house, and any yard garden outhouse and appurtenances usually enjoyed with the house, shall be deemed to form part of the house.

[S. 10. *Application to Scotland.*]

[S. 11. *Application to Northern Ireland.*]

12. Short title.—This Act may be cited as the Building Materials and Housing Act, 1945.

HOUSING (TEMPORARY ACCOMMODATION) ACT, 1945

[8 & 9 Geo. 6, Ch. 39]

An Act to authorise the use of open space during a limited period for temporary housing accommodation, and for purposes connected therewith. [15th June, 1945.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

NOTES.

General Note.—See *R. v. Minister of Health, Ex parte Villiers*, [1936] 2 K. B. 29; [1936] 1 All E. R. 817; 100 J. P. 212.

Under this Act the Minister may authorise the temporary user of any open space for the provision of temporary housing accommodation provided the authorisation is given within two years from the 15th June, 1945, and the Minister of Town and Country Planning certifies it expedient in the public interest. The duration of the temporary user is limited to ten years: and if injurious affection results to other lands the local authority are liable to pay compensation under s. 68 of the Lands Clauses Consolidation Act, 1845, p. 806, *post*.

1. Power to authorise use of open space during a limited period for temporary housing accommodation.

—(1) Subject to the provisions of this section, the Minister of Health (in this Act referred to as “ the Minister ”) may by order authorise a local authority (a) for the purposes of Part V of the Housing Act, 1936, to use for the purposes of the Housing (Temporary Accommodation) Act, 1944, land vested in them, or at their disposal, at the passing of this Act which is, or forms part of, an open space :

Provided that this subsection shall have effect during the period of two years beginning with the passing of this Act and no longer.

(2) Such an authorisation shall not be given as to any land unless the Minister of Town and Country Planning certifies that he is satisfied that the use as aforesaid of that particular land is expedient in the public interest in consequence of the emergency that was the occasion of the passing of the said Act of 1944 and in the particular circumstances in which the authorisation is sought.

(3) Any such authorisation shall be for a period of not longer than ten years to be specified in the order, and shall be revocable during that period by order of the Minister.

(4) Whilst such an authorisation is in force, the land may be used for the erection thereon of structures made available under section one of the said Act of 1944 (b), for the execution of all works required for that purpose, and for the provision of housing accommodation in such structures erected thereon, notwithstanding—

- (a) anything in any enactment relating to open spaces, including any enactment whether public general or local or private, by which any of the land is specially regulated ; or
- (b) that the use of the land as aforesaid, or the execution of any such works as aforesaid, involves interference with any easement, liberty, privilege, right or

advantage annexed to other land and adversely affecting that land, or breach of any restriction as to the use of the land arising by virtue of any contract ;

and any right of way over the land, or other right relating thereto enjoyed by any person, whether by virtue of an interest in the land or otherwise, shall, in so far as the exercise thereof would interfere with the use of the land as aforesaid or the execution of any such works as aforesaid, not be exercisable (c).

(5) If any other land is injuriously affected by the execution of works under the last preceding subsection on land as to which such an authorisation is given, the local authority shall be subject to the like liability to pay compensation under section sixty-eight of the Lands Clauses Consolidation Act, 1845 (*d*), in respect of damage sustained by reason thereof as they would have been under if the works had been executed under an enactment incorporating that section on land acquired by them under that enactment.

(6) When such an authorisation ceases to be in force, the local authority shall forthwith take all steps requisite for securing the reinstatement of the land in the state in which it was before the authorisation was given, or in such altered state suited to the use of the land as open space as the Minister may approve ; and accordingly subsection (1) of section two of the said Act of 1944, so far as it relates to the Minister's causing structures to be removed at the request of the local authority at any time after the expiration of ten years from the passing of that Act, shall have effect as to structures on land as to which such an authorisation is given with the substitution of a reference to the authorisation's ceasing to be in force for the reference to the expiration of the said ten years.

(7) The reference in section one of the said Act of 1944, and references to the Housing Act, 1936, to land appropriated by a local authority for the purposes of Part V of the Housing Act, 1936, shall be construed as including references to land as to which an authorisation given to the local authority under this section is in force—

Provided that the local authority shall not be entitled by virtue of this subsection to exercise as to any such land as aforesaid any of the powers of sale, leasing and exchange conferred by section seventy-nine (*e*) of the Housing Act, 1936, as to land appropriated for the purposes of the said Part V.

(8) In this section the expression "open space" (f) has the same meaning as in the Housing Act, 1936, except that it does not include a disused burial ground.

NOTES.

(a) "**Local Authority.**"—As to local authorities for the purposes of the Housing Acts, see ss. 1 and 103 of the principal Act, pp. 47, 230, *ante*, and s. 4 (3) of the Housing (Temporary Accommodation) Act, 1944, p. 406, *ante*.

(b) **S. 1 of the Act of 1944.**—Provision of structures to provide temporary housing accommodation, see p. 404, *ante*.

(c) "**Not exercisable.**"—Rights of way are not extinguished but cease to be exercisable during the period of temporary user.

(d) **Section 68, Lands Clauses Consolidation Act, 1845.**—See p. 806, *post*.

(e) **Section 79 of the principal Act.**—See p. 198, *ante*.

(f) "**Open space.**"—In s. 143 (4) of the principal Act, p. 276, *ante*, "open space" means any land laid out as a public garden or used for the purposes of public recreation, and any disused burial ground.

[S. 2. *Application to Scotland.*]

3. Short title.—This Act may be cited as the Housing (Temporary Accommodation) Act, 1945.

HOUSING (FINANCIAL AND MISCELLANEOUS PROVISIONS) ACT, 1946

[9 & 10 Geo. 6, Ch. 48]

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An Act to make fresh arrangements for the making of contributions grants and loans in connection with the provision of housing accommodation; to provide for matters subordinate to that purpose; to amend the enactments which relate to the making of contributions in respect of housing accommodation; to amend the laws relating to the housing account of local authorities; and to facilitate the provision of housing accommodation in the Isles of Scilly.

[18th April 1946.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

NOTE.

General Note.—The contributions which are payable under this Act are payable in respect of each new house provided by the local authority. Contributions are not limited to houses required for the purpose of providing accommodation for persons displaced from other houses by reason of action taken under Parts II, III, or IV of the principal Act; and they are payable in respect of new houses purchased by the local authority as well as those built for them. The Exchequer contribution is now payable for sixty years instead of forty years as formerly. The Exchequer contributions under this Act are of three kinds. In respect of any house there is the "general standard amount" of £16 10s. In respect of agricultural housing accommodation in county districts where rents are below average and the expenditure on housing imposes an undue burden, there is a "Special Standard Amount" of £25 10s. Where the accommodation is provided in flats on sites of high value there is a standard amount for such flats on a scale calculated in accordance with the provisions of the First Schedule, p. 461, *post*. A further contribution is available where there is expenditure on rights of support, s. 6, *post*; and the standard amounts may be further increased in certain cases where the rate burden in respect of housing is exceptionally heavy (see s. 7, p. 436, *post*), so as to enable a reduction in the rate fund contribution.

CONTRIBUTIONS FOR HOUSES COMPLETED AFTER PASSING OF THIS ACT.

1. Exchequer contributions in respect of housing accommodation provided by local authorities.—(1) In respect of each new house provided by a local authority (a) in the exercise of their powers (b) to provide housing accommodation, being a house which—

- (a) is completed after the passing of this Act (c); and
- (b) is approved for the purposes of this Act by the Minister of Health (hereinafter referred to as "the Minister");

the Minister shall, subject to the provisions of this Act, pay to that local authority, for each of the sixty years following the completion of the house, an annual contribution (hereinafter referred to as an "annual exchequer contribution" (*d*)).

(2) Subject to the provisions of this Act, the amount of each annual exchequer contribution shall be that one of the standard amounts hereinafter mentioned which is appropriate to the house in respect of which the contribution is payable.

NOTES TO SECTION 1.

(a) "**Local Authority.**"—In this Act local authority means any authority which is a local authority for the purposes of any provision of the Housing Acts, 1936 to 1944; see s. 25 (1), p. 459, *post*. For the definition in the principal Act see s. 1 of that Act, p. 47, *ante*.

(b) "**Power to provide housing accommodation.**"—Under s. 71 of the principal Act, p. 191, *ante*, it is the duty of the local authority to consider the needs of the district for further housing accommodation for the working classes and to submit proposals to the Minister for new houses to meet those needs. The only limitation on the power to provide housing accommodation is that it must be to meet the needs of the working classes. The term "working classes" is not defined in the Housing Acts; see note (f) to s. 6 of the principal Act, p. 57, *ante*.

(c) "**Completed after the passing of this Act.**"—For houses completed before the passing of the Act which attract subsidies under this Act see ss. 9 and 10, p. 439, *post*.

(d) "**Annual Exchequer contribution.**"—See definition contained in s. 188 (1) of the principal Act, p. 311, *ante*. See also notes to s. 129 of that Act, p. 260, *ante*.

2. General standard amount of exchequer contributions.—Subject to the following provisions of this Act, the standard amount of the annual exchequer contribution for any house shall be sixteen pounds ten shillings.

The said amount is hereinafter referred to as the "general standard amount."

NOTE TO SECTION 2.

General Note.—This section provides that the annual Exchequer contribution ordinarily payable for each house is to be £16 10s. This sum is referred to as the "general standard amount."

3. Special standard amount of exchequer contributions.—(1) For a house provided by the council of a county district (a) by way of housing accommodation required for the agricultural population (b) of their district, the standard amount of the annual exchequer contribution shall, subject to the following provisions of this Act, be twenty-five pounds ten shillings.

The said amount is hereinafter referred to as the "special standard amount".

(2) Where the Minister is satisfied, on an application made to him by the council of a county district with respect to any house which the council have provided or intend to provide—

- (a) that, apart from this subsection, the standard amount of the annual exchequer contribution for the house would be, or would be calculated by reference to, the general standard amount (c);
- (b) that the average rent of houses in the district occupied by wage earning workers, or by persons whose economic condition is similar to that of wage earning workers, is, where the district is a borough or urban district, substantially less than the average rent of houses so occupied in non-county boroughs and urban districts in England generally, and, where the district is a rural district, substantially less than the average rent of houses so occupied in rural districts in England generally; and
- (c) that when the amount of the expenditure incurred or to be incurred by the council of the county district under the enactments relating to housing is considered in relation to the financial resources of the district, the provision of the house with respect to which the application is made would impose an undue burden on the district, unless the standard amount of the annual exchequer contribution for the house is determined in accordance with this subsection;

then, if the Minister thinks fit so to determine, the standard amount of the annual exchequer contribution for the house with respect to which the application is made shall, subject to the following provisions of this Act, be the special standard amount:

Provided that in exercising his powers under this subsection the Minister shall have regard to any conditions which may be laid down by the Treasury.

NOTES TO SECTION 3.

General Note.—In the case of agricultural housing accommodation a "special standard amount" of £25 10s. is payable as the annual Exchequer contribution. This contribution is also payable in the case of houses in county districts where the average rent is substantially less than the average in such districts generally; and the expenditure of the council on housing is such as to impose an undue burden on the district. Where this contribu-

tion is payable it is supplemented by a contribution from the county council of £1 10s. in respect of each house; see s. 8, p. 438, *post*. The conditions under which this contribution is payable, in respect of non-agricultural housing, are similar to those contained in s. 1 (3) of the Housing (Financial Provisions) Act, 1938, p. 386, *ante*.

(a) "**County district.**"—Means non-county borough or urban, or rural district. See sub-s. (2) (b).

(b) "**Agricultural population.**"—For the definition of this term see s. 115 (2) of the principal Act, p. 247, *ante*. That definition is made applicable to this Act by s. 25 (1), p. 459, *post*.

(c) "**General standard amount.**"—See s. 2, *ante*.

4. Standard amount of exchequer contributions for flats, etc., on expensive sites.—(1) For a flat provided in a block of flats (a) on a site the cost of which as developed (ascertained in accordance with Part I of the First Schedule (b) to this Act) exceeds one thousand five hundred pounds per acre, the standard amount of the annual exchequer contribution shall, subject to the following provisions of this Act, be determined in accordance with the Table contained in Part II of the said First Schedule (c):

Provided that where the whole or any part of a block of flats on such a site as aforesaid is of at least four storeys (including any storey which is constructed for use for purposes other than those of a dwelling), and expenditure has been incurred in installing lifts in the block, then, if the Minister thinks fit so to determine in relation to any of the flats in the block, the standard amount of the annual exchequer contribution for that flat shall, subject as aforesaid, be determined in accordance with the Table contained in Part III of the said Schedule (d).

(2) Where a house (not being a flat in a block of flats)—

(a) is provided on a site the cost of which as developed (ascertained in accordance with Part I of the First Schedule (b) to this Act) exceeds one thousand five hundred pounds per acre; and

(b) is provided under a scheme of development which makes provision also for the erection of one or more blocks of flats on the same site as the house;

then, if the Minister thinks fit so to direct, the standard amount of the annual exchequer contribution for that house shall be determined in accordance with the Table contained in Part II of the said First Schedule (c).

(3) Any question as to what constitutes a separate site for the purpose of this section and of the said First Schedule shall be determined by the Minister.

- (4) For the purposes of any such determination—
- (a) where two buildings are contiguous to each other, or are separated from each other by a street (e) only, the two buildings shall, if the Minister thinks proper, be deemed to be on the same site; and
 - (b) where any land is purchased in connection with the provision of a building, and is to be used for the purposes of a new street to which the building will be contiguous, that land shall be deemed to form part of the site of the building.

In this subsection the expression "building" includes any land appertaining to a building, and any land appropriated for the purposes of a building which has not been erected.

NOTES TO SECTION 4.

General Note.—This section provides special provisions as to the standard amount of the Exchequer contributions payable in respect of flats built on sites costing more than £1,500 per acre, as developed. These contributions are to be calculated in accordance with the provisions of the First Schedule, p. 461, *post*. An additional Exchequer contribution of £7 per flat will be paid where lifts are installed in blocks of four or more storeys. The contributions under this section may also be paid, at the Minister's discretion, in respect of houses provided as part of a mixed development of houses and blocks of flats on an expensive site. This provision is useful in enabling the authority to comply with planning density requirements.

(a) "**Block of flats.**"—This expression is defined in s. 11 (1) (b) of the Housing (Financial Provisions) Act, 1938, p. 399, *ante*, to mean "a building which contains two or more flats, and which consists of three or more storeys exclusive of any storey constructed for use for purposes other than those of a dwelling; Provided that, for the purposes of this Act, a building shall, notwithstanding that it does not in all parts exceed two storeys in height, be deemed to be a building of three storeys, if the Minister is satisfied that the total accommodation provided in that building is not less than the accommodation which could have been provided in a building on the same superficial area if the building had in all parts been of three storeys." By s. 25 (1) of this Act, p. 459, *post*, "block of flats" means a building which is a block of flats for the purposes of the Housing (Financial Provisions) Act, 1938.

(b) **Part I of the First Schedule.**—Provision for ascertaining the value of the site, p. 461, *post*. See sub-s. (4) for determining what constitutes a separate site.

(c) **Part II of the First Schedule.**—Table for calculation of Exchequer and rate fund contributions in respect of flats on expensive sites, p. 462, *post*.

(d) **Part III of the First Schedule.**—As in note (c) above where flats are in blocks of four or more storeys and lifts are provided, p. 463, *post*.

(e) "**Street.**"—See definition in s. 25 (1), p. 459, *post*.

5. Local authorities' contributions.—(1) In respect of each house in respect of which annual exchequer contributions (a) are payable, the local authority by whom the

house was provided shall pay out of the general rate fund, for each of the sixty years following the completion of the house, an annual contribution (hereinafter referred to as an "annual rate fund contribution" (b)).

(2) Subject to the provisions of this Act, the amount of each annual rate fund contribution shall be that one of the normal amounts hereinafter mentioned which is appropriate to the house in respect of which the contribution is payable.

(3) Subject to the following provisions of this Act, the normal amount (c) of the annual rate fund contribution for any house shall be five pounds ten shillings.

(4) Where the standard amount of the annual exchequer contribution for a house is the special standard amount (d), the normal amount of the annual rate fund contribution for the house shall, subject to the following provisions of this Act, be one pound ten shillings.

(5) Where the standard amount of the annual exchequer contribution for a house is determined in accordance with the Table contained in Part II of the First Schedule (e) to this Act, the normal amount of the annual rate fund contribution for the house shall, subject to the following provisions of this Act, be determined in accordance with that Table.

(6) Where the standard amount of the annual exchequer contribution for a house is determined in accordance with the Table contained in Part III of the said First Schedule (f), the normal amount of the annual rate fund contribution for the house shall, subject to the following provisions of this Act, be determined in accordance with that Table.

(7) In relation to a house provided by the London County Council, subsection (1) of this section shall have effect with the substitution for the reference to the general rate fund of a reference to the county fund (g).

NOTES TO SECTION 5.

General Note.—In respect of each house in respect of which Exchequer contributions are payable the local authority are to make an annual rate fund contribution. Where the "general standard amount" is payable by the Exchequer the authority will pay £5 10s., and where the special standard amount is payable the authority's contribution will be £1 10s. In the second case this will be supplemented by a county council contribution of £1 10s. The rate fund contributions in the case of flats on expensive sites are calculated in accordance with the provisions of the First Schedule, p. 461, *post*. And where the Minister's contribution is increased by £7 per flat in the case of blocks of four or more storeys provided with lifts the rate fund contribution is increased by £3 10s. If additional Exchequer assistance is provided in respect of expenditure on rights of support, then the rate fund contribution is to be increased by an amount equal to one-half of such addition, s. 6, p. 435, *post*. Provision is made in s. 7, p. 436, *post*, for relief in rate fund contribu-

tions where the rate burden for housing and the general rate per pound are both above average to the extent of one-half and one-quarter respectively. In such case the Minister may, subject to Treasury conditions, reduce the rate fund contribution and increase the Exchequer contribution to the extent of the reduction ; provided the rate fund contribution is not reduced below one-half of what would have been the normal amount.

(a) "**Annual Exchequer contribution.**"—See definition contained in s. 188 (1) of the principal Act, p. 311, *ante*. See also notes to s. 129 of that Act, p. 258, *ante*. For amounts under this Act see ss. 2, 3, and 4, *ante*.

(b) "**Annual rate fund contribution.**"—See s. 129 of the principal Act, p. 258, *ante*, and notes thereto.

(c) "**Normal amount.**"—This expression is used again in sub-ss. (3) (4) (5) and (6), but here it means the amount to be paid where the Exchequer contribution is the "general standard amount" of £16 10s.

(d) "**Special standard amount.**"—This is the contribution payable under s. 2, *ante*, of £25 10s.

(e) "**Part II of the First Schedule.**"—Table for calculating Exchequer and rate fund contributions for flats on expensive sites, p. 462, *post*.

(f) "**Part III of the First Schedule.**"—As in note (e) above where flats are in blocks of four or more storeys and provided with lifts, p. 463, *post*.

(g) **Sub-section (7).**—This provision is identical with para. (6) of the Tenth Schedule to the principal Act, p. 346, *ante*. It is a necessary adaptation to make the Act applicable to London.

6. Housing schemes involving expenditure on rights of support, etc.—Where the Minister is satisfied, on an application made to him by a local authority with respect to any house which the authority have provided or intend to provide, that the cost of providing the house has been or will be substantially enhanced by expenses attributable to the acquisition of rights of support, or otherwise attributable to measures taken by the authority for securing protection against the consequences of a subsidence of the site, then, if the Minister thinks fit so to determine—

- (a) the standard amount of the annual exchequer contribution for the house shall be the standard amount of the annual exchequer contribution for the house, as ascertained in accordance with the preceding provisions of this Act, plus such sum not exceeding two pounds as the Minister may determine ; and
- (b) the normal amount of the annual rate fund contribution for the house shall be the normal amount of the annual rate fund contribution for the house, as ascertained in accordance with the said provisions, plus one half of the sum by which the standard amount of the annual exchequer contribution is increased under this section.

NOTE TO SECTION 6.

General Note.—In this section there is an echo of the liability of local authorities to leave support for other houses in their demolitions under Parts II and III of the principal Acts; see note (d) to s. 26, p. 109, *ante*. The purpose of the section is to enable the Minister to make an additional contribution where the cost is substantially enhanced by the need to protect the site against subsidence. The rate fund contribution must be increased by a sum equal to one-half of the additional Exchequer contribution. The additional assistance from the Exchequer is limited to £2 per house.

7. Reduction of local authorities' contributions in certain cases, and corresponding increase of exchequer contributions.—(1) Where the Minister is satisfied, on an application made to him by a local authority to whom this section applies with respect to any house which the authority have provided or intend to provide—

- (a) that the average amount in the pound per year of the general rates levied by that authority for the three financial years immediately preceding the receipt of the application exceeds, by at least one-quarter, the average amount in the pound per authority per year of the general rates levied for those financial years by all local authorities of the same class; and
- (b) that, for the last financial year for which adequate information is available, the rate burden of the authority in respect of housing was at least half as much again as the average rate burden in respect of housing of all local authorities of the same class for that year;

then, if the Minister thinks fit so to determine, every annual rate fund contribution payable in respect of the house with respect to which the application is made shall, instead of being of the normal amount (a), be of such reduced amount, not being less than one half of the normal amount, as the Minister thinks proper.

(2) Where the annual rate fund contributions payable in respect of a house are so reduced as aforesaid, the amount of every annual exchequer contribution payable in respect of the house shall be the sum of—

- (a) the standard amount (b) of the annual exchequer contribution for the house; and
- (b) the amount by which each of the annual rate fund contributions payable in respect of the house has been so reduced.

(3) In exercising his powers under the preceding pro-

visions of this section the Minister shall have regard to any conditions which may be laid down by the Treasury.

(4) For the purposes of subsection (1) of this section—

(a) where a local authority levy a general rate for part only of a financial year, the amount in the pound of the general rate levied by the authority for that year shall be the sum of the amounts in the pound of all general rates levied by the authority for periods falling within the year ;

(b) the rate burden of an authority in respect of housing for any financial year is an amount in the pound representing the rate which, in the opinion of the Minister, it would have been necessary for the authority to levy for that year in order to raise the total sum which it was proper for them to carry to the credit of their Housing Revenue Account for the year in compliance with paragraph (e) of subsection (1) of section one hundred and twenty-nine of the principal Act (c) ; and

(c) local authorities shall be classified in such manner as the Minister thinks appropriate having regard to the conditions governing the provision of housing accommodation for their respective areas.

(5) The local authorities to whom this section applies are the councils of county boroughs, county districts and metropolitan boroughs (d).

NOTES TO SECTION 7.

General Note.—This section provides for reduction in rate fund contributions in areas where the general rate per pound and the rate burden for housing are both above average to the extent of one-quarter and one-half respectively. In such case the Minister may, subject to Treasury conditions, reduce the rate fund contribution and increase the Exchequer contribution to the extent of that reduction provided always that the rate fund contribution is not to be reduced below one-half of what would have been the normal amount.

Sub-section (4) provides how the amount in the pound of the general rate, and rate burden in respect of housing are to be determined for the purpose of this section. Sub-section (5) describes the authorities to whom the section applies and includes county boroughs and metropolitan boroughs as well as county districts.

(a) “**Normal amount.**”—For these amounts see s. 5, sub-ss. (3) to (6), p. 434, *ante*, and the First Schedule, p. 461, *post*.

(b) “**Standard amount.**”—For these amounts see ss. 2 to 4, pp. 430 *et seq.*, *ante*, and the First Schedule, p. 461, *post*.

(c) **Section 129 (1) (e) of the principal Act.**—Local authorities' contributions to be carried to the credit of the housing revenue account, p. 258, *ante*. The contributions include contributions payable under the Eighth Schedule to the principal Act, p. 341, *ante* ; together with the contributions

payable under this Act and under the Housing (Financial Provisions) Act, 1938; see s. 5 of that Act, p. 393, *ante*.

(*d*) **Sub-section (5).**—Relief by way of the special standard amount is only available to county districts (see s. 3, *ante*); under this sub-section reduction may be given to county and metropolitan boroughs. As to local authorities for the purposes of the Housing Acts see s. 1 of the principal Act, p. 47, *ante*, and notes thereto.

8. County council contributions.—(1) Where annual exchequer contributions of the special standard amount (*a*), or of that amount as increased in accordance with any of the provisions of the last two preceding sections, are payable in respect of any house to the council of a county district (*b*), the council of the county in which the district is situated shall, subject to the provisions of this Act, pay to the council of the district in respect of that house, for each of the sixty years following the completion of the house, an annual contribution of one pound ten shillings.

The said contributions are hereinafter referred to as “county council contributions.”

(2) Without prejudice to their duties under the preceding subsection, the council of a county may, with the consent of the Minister, undertake to pay to the council of any county district situated in the county, in respect of any house provided by the council of the district with the approval of the Minister, an annual contribution of such amount and payable for such number of years as may be specified in the undertaking.

(3) After the passing of this Act (*c*), no undertaking shall be given under subsection (4) of section one hundred and fifteen of the principal Act (*d*) (which relates to the power of county councils to make contributions in respect of houses provided by the councils of rural districts).

(4) A local authority who are required to keep a Housing Revenue Account shall carry to the credit of the account (in addition to the amounts which they are required to carry to the credit of that account under section one hundred and twenty-nine of the principal Act (*e*)) amounts equal to the contributions, if any, payable to the authority by the county council under this section.

NOTES TO SECTION 8.

General Note.—The county council are required to make a supplemental contribution in respect of all houses provided in county districts in respect of which the “special standard amount” of Exchequer contribution is payable under s. 3, *ante*. The amount of this supplement is £1 10s. and is payable for sixty years. A further contribution may be made by the county council with the consent of the Minister. This further contribution is an extension

of the power of the county council to make similar arrangements with rural districts under s. 115 (3) of the principal Act, p. 247, *ante*. No undertaking under s. 115 (3) is to be given after the passing of this Act. County council contributions under this section are to be credited to the housing revenue account (see s. 129 of the principal Act, p. 258, *ante*, and notes thereto).

(a) "**Special standard amount.**"—This is the contribution of £25 10s. payable under s. 3, *ante*.

(b) "**County district.**"—Means non-county borough, or urban or rural district; see s. 3 (2) (b), *ante*.

(c) "**After the passing of this Act.**"—18th April, 1946.

(d) **Section 115 (4) of the principal Act.**—See p. 247, *ante*.

(e) **Section 129 of the principal Act.**—Credits in the housing revenue account; see p. 258, *ante*.

TRANSITIONAL PROVISIONS.

9. Provisions relating to contributions under 1 & 2 Geo. 6, c. 16.—(1) After the passing of this Act, no contributions shall be payable in respect of a house under section one (a) or section two (b) of the Housing (Financial Provisions) Act, 1938, unless the approval of the Minister for the purposes of either of those sections has been given in respect of the house before the third day of August nineteen hundred and forty-four (c).

(2) Where the Minister has, on or after the third day of August, nineteen hundred and forty-four, and before the passing of this Act, given his approval in respect of a house for the purposes of either of the said sections, and the house has been completed before the passing of this Act, then—

(a) this Act shall, for the purposes of the payment of contributions in respect of that house, be deemed to have been passed immediately before the completion of the house;

(b) the house shall be deemed to have been approved by the Minister for the purposes of this Act; and

(c) any sums which have, before the passing of this Act, been paid in respect of the house on account of contributions under the said Act of 1938 shall, so far as is practicable, be applied in or towards the satisfaction of any contributions which become payable in respect of the house by virtue of this Act and are due immediately after the passing thereof, and, except in so far as they are so applied, shall be repayable to the person by whom they were paid.

(3) Section forty-eight of the Town and County Planning Act, 1944 (d) (which provides for extending the duty of the

Minister to make contributions under section one of the said Act of 1938) is hereby repealed.

NOTES TO SECTION 9.

General Note.—This section settles the position in relation to houses provided under the 1938 Act which were approved subsequent to the passing of the Housing (Temporary Provisions) Act, 1944, p. 385, *ante*. If they were approved before the passing of the 1944 Act, subsidies are payable in accordance with the 1938 Act, if after, they are payable in accordance with this Act. Approval of tenders will be regarded as approval for the purposes of the Act. In Appendix I of Circular 118/46 of the 12th July, 1946, see p. 588, *post*, the Minister advises that where authorities consider that houses so approved are eligible for other contributions under the Act they should make application for such.

(a) **Section 1 of the 1938 Act.**—General provision for the payment of Exchequer contributions under that Act, p. 386, *ante*.

(b) **Section 2 of the 1938 Act.**—Exchequer contributions in respect of agricultural housing, p. 389, *ante*.

(c) **“Third day of August, 1944.”**—This is the date of the passing of the Housing (Temporary Provisions) Act, 1944. Under that Act the restriction of subsidies to houses provided for persons displaced by action taken under Parts II, III and IV of the principal Act imposed by s. 1 (5) of the 1938 Act, p. 387, *ante*, was to be disregarded between the 3rd August, 1944, and the 1st October, 1947. This is no longer of importance since the subsidies under this Act are now payable from the 3rd August, 1944.

(d) **Section 48 of the Town and Country Planning Act, 1944.**—This section amended s. 1 (5) of the 1938 Act. The 1944 Act was passed on the 17th November, 1944, and since subsidies are payable in respect of all houses approved on and after the 3rd August, 1944, under this Act the amendment provided for in s. 48 is without effect.

CONTRIBUTIONS IN SPECIAL CASES.

10. Contributions for certain houses provided by local authorities since 1939.—(1) The provisions of this section shall have effect in relation to any house (a) which—

- (a) is provided by a local authority (b) in the exercise of their powers to provide housing accommodation ;
 - (b) is completed after the thirty-first day of December, nineteen hundred and thirty-nine, otherwise than in pursuance of a contract made with a building contractor on or before that date ;
 - (c) is a house for the construction of which building operations have begun before the passing of this Act ; and
 - (d) is not a house which has in fact been approved by the Minister for the purposes of this Act, or is deemed to have been so approved by virtue of the preceding provisions of this Act.
- (2) If the Minister with the consent of the Treasury, so

determines, there shall, subject to the provisions of this section, be payable in respect of any such house the like annual exchequer contributions, the like annual fund contributions and the like county council contributions (if any) as would have been payable if—

- (a) the house had been approved by the Minister for the purposes of this Act ; and
- (b) in the case of a house completed before the passing of this Act, this Act had been passed before the completion of the house.

(3) Where contributions are payable in respect of a house under the last preceding subsection, the Minister shall have power to give such directions for all or any of the following purposes as he thinks appropriate having regard to the circumstances, and, in particular, having regard to the date when the house was completed and to any payments which have been made in respect of the house out of moneys provided by Parliament—

- (a) for reducing the number of the contributions so payable in respect of the house ;
- (b) for reducing the amount of any such contribution ;
- (c) for altering the period in respect of which any such contribution is payable.

(4) No contributions shall, after the passing of this Act, be paid under the *Housing (Financial Provisions) Act, 1938* (c), in respect of any house in respect of which the Minister has determined that contributions are to be paid under this section.

NOTES TO SECTION 10.

General Note.—This section makes it possible for the Minister to apply the contributions of the present Act to houses provided in pursuance of contracts made after the 31st December, 1939. The purpose of the section is to enable the Minister to implement undertakings to local authorities who provided houses during the war or who provided agricultural housing under the emergency programme of 1943 (see Appendix II of Circular 118/46 of the 12th July, 1946, p. 589, *post*). Even where the contributions under this Act are applied, however, the Minister may reduce the amount or number of the contributions or the period for which they are payable. The amount of contributions and the period for which they are payable will have regard to the actual cost of the houses and any capital grant received from the Minister of Agriculture and Fisheries.

(a) “**House.**”—See s. 25 (2), p. 459, *post*. “In this Act the expression ‘house’ includes any part of a building, being a part which is occupied or intended to be occupied as a separate dwelling, and, in particular, includes a flat.”

(b) "**Local Authority.**"—See s. 1 of the principal Act, p. 47, *ante*, and as to London, see s. 103 of that Act, p. 230, *ante*. See also s. 25 (1) of this Act, p. 459, *post*.

(c) **Housing (Financial Provisions) Act, 1938.**—For contributions under that Act see ss. 1 to 7 thereof, pp. 386 *et seq.*, *ante*.

11. Contributions for certain houses provided by housing associations since 1939.—(1) Where a house—

- (a) is provided by a housing association (a), otherwise than in pursuance of an arrangement made by a local authority with the association under section ninety-four of the principal Act (b); and
- (b) is a house for the construction of which building operations began between the end of December nineteen hundred and thirty-nine, and the passing of this Act (c), otherwise than in pursuance of a contract made with a building contractor before the said end of December;

then, if the Minister, with the consent of the Treasury, thinks fit so to determine, the like annual exchequer contributions (d) shall be paid to the association in respect of the house as would, in the opinion of the Minister, have been payable by virtue of the last preceding section in respect thereof to the local authority in whose area the house is situated if the house had been provided by that authority in the exercise of their powers to provide housing accommodation.

(2) If the Minister is satisfied that, after taking account of any contributions payable in respect of any such house under the preceding subsection, the house cannot, without loss to the association concerned, be let at a rent within the means of the actual or potential tenants of the house, the Minister may, with the consent of the Treasury, pay to the association, for each period in respect of which a contribution is payable under the preceding subsection, an additional contribution under this subsection:

Provided that the amount of any contribution payable under this subsection shall not exceed what in the opinion of the Minister would have been the amount of each annual rate fund contribution which would have been payable in respect of the house if the condition specified in the preceding subsection had been fulfilled.

NOTES TO SECTION 11.

General Note.—In Circular 118/46 of the 12th July, 1946, the Minister states that this section relates to houses built by the North Eastern Housing Association at the request of the Minister.

(a) "**Housing association.**"—Definition, see s. 188 (1) of the principal Act, p. 311, *ante*.

(b) **Section 94 of the principal Act.**—Power of local authorities to make arrangements with housing associations for the provision of accommodation, p. 224, *ante*.

(c) "**Passing of this Act.**"—The date of passing was the 18th April, 1946.

(d) "**Annual Exchequer contributions.**"—See ss. 1 to 4, *ante*, and s. 6. The provisions as to reduction of rate fund contributions and increase of Exchequer contributions contained in s. 7, p. 436, *ante*, have their counterpart in sub-s. (2).

12. Contributions in respect of temporary housing accommodation provided in certain war buildings.—

(1) Where, whether before or after the passing of this Act, a local authority (a) have, for the purpose of discharging any of their duties under Part V of the principal Act, acquired (b) the right to use any government war buildings (c), and the Minister has approved for the purposes of this section arrangements made by the authority for using those buildings, whether with or without alterations (d), for providing temporary housing accommodation, then—

(a) if the Minister estimates that the authority will incur a loss in any year in respect of the provision of housing accommodation in pursuance of the arrangements, the Minister shall make to the authority a contribution for that year of a sum equivalent to the estimated loss ; and

(b) if the Minister estimates that the authority will make a profit in any year in respect of the provision of housing accommodation in pursuance of the arrangements, the authority shall pay to the Minister in respect of that year a sum equivalent to the estimated profit.

(2) For the purposes of any such estimate, there shall be deemed to accrue to a local authority, in respect of any house provided by the authority in pursuance of any such arrangements as aforesaid, in addition to any other income accruing from the house—

(a) where the authority are the council of a rural district, the sum of six pounds a year ; and

(b) in any other case, the sum of eight pounds a year.

(3) Where any buildings are demolished by a local authority upon ceasing to be used for the purpose of providing housing accommodation in pursuance of such arrangements as aforesaid, then—

- (a) the Minister shall pay to the authority the cost of demolition ; and
- (b) any sums realised by the authority by the disposal of materials derived from the demolished buildings shall be paid by the authority to the Minister.

(4) In this section the expression "government war building" means any building which constitutes government war works as defined by section fifty-nine of the Requisitioned Land and War Works Act, 1945 (*e*), and the expression "alterations" includes adaptations, enlargements and improvements.

NOTES TO SECTION 12.

General Note.—The conversion of temporary war time buildings was dealt with, in anticipation of this Act, in Circular 20/46 of the 22nd January, 1946, p. 581, *post*. In that circular the Minister states that he is prepared to consider proposals by local authorities for the taking over of temporary war time buildings for housing purposes. Where the proposals are approved the buildings will be handed over free. If the land is in Government ownership, it will be sold to the local authority. If it is requisitioned land, the authority are advised to acquire under s. 73 of the principal Act, p. 194, *ante*, as amended by s. 4 (2) of the Housing (Temporary Accommodation) Act, 1944, p. 406, *ante*. The Minister is prepared to consider the authority negotiating a lease of the land if the rent is endorsed by the District Valuer and the term is one of at least ten years. The cost of conversion is to be borne by the local authority and it must not exceed £250 in respect of any one dwelling.

The Minister will estimate the probable loss or profit after taking into account the following factors :—

- (a) a fixed annual charge of £6 10s. per dwelling to cover repairs and management ;
- (b) estimated annual loan charges on an eighty year basis on the cost of the land (or rent in the case of land leased) ;
- (c) estimated annual loan charges on cost of conversion ;
- (d) agreed rents ; and
- (e) the sums set out in sub-s. (2).

On this estimate the Minister will pay to the authority a sum equivalent to any estimated loss ; or will receive from the authority a sum equivalent to any estimated profit.

All transactions in respect of converted dwellings must be accounted for in the Housing Revenue Account (see s. 129 of the principal Act, p. 258, *ante*).

(a) "**Local Authority.**"—See s. 1 of the principal Act, p. 47, *ante* ; as to London, see s. 103 of that Act, p. 230, *ante*. See also s. 25 (1) of this Act, *post*.

(b) "**Acquired.**"—For powers to acquire see s. 73 of the principal Act, p. 194, *ante*.

(c) "**Government war building.**"—For definition see s. 59 of the Requisitioned Land and War Works Act, 1945 ; 38 Halsbury's Statutes 623.

(d) "**Alterations.**"—The cost of conversion is to be borne by the local authority and must not exceed £250 in the case of any one dwelling. Loan charges on the cost of conversion will be taken into account in calculating loss or profit.

(e) Section 59 of the Requisitioned Land and War Works Act, 1945.—See 38 Halsbury's Statutes 623.

PROVISIONS AS TO CONTRIBUTIONS UNDER OTHER ACTS.

13. Amendment of section 3 of 1 & 2 Geo. 6, c. 16.—

(1) Section three of the Housing (Financial Provisions) Act, 1938 (a) (which provides for the making by the Minister of contributions in respect of agricultural housing accommodation provided by persons other than local authorities) shall, in relation to a new house completed in pursuance of arrangements made under that section after the passing of this Act, have effect as if, in subsection (1) thereof, for the words "not exceeding ten pounds" there were substituted the words "not exceeding fifteen pounds".

(2) In relation to arrangements made under the said section three after the passing of this Act, the section shall have effect as if, for paragraph (b) of subsection (1) thereof, there were substituted the following paragraph:—

"(b) if let, is let at a rent not exceeding such rent as in the opinion of the council it would have been appropriate for the council to charge if the house had been provided by the council."

(3) In respect of a new house completed after the passing of this Act, no contribution shall be payable under the said section three for any year during the whole or any part of which the house has been occupied by a person who was not the owner or a tenant of the house.

NOTES TO SECTION 13.

General Note.—Where houses are provided under s. 3 of the Housing (Financial Provisions) Act, 1938, p. 391, *ante*, by private developers for the agricultural population the Exchequer contributions are increased from £10 for forty years to £15 for forty years. S. 3 of the 1938 Act is also amended to relate the rent to that which would be appropriate if the house had been provided by the local authority. Sub-s. (3) prevents the payment of a subsidy on a "tied" house.

(a) Section 3 of the Housing (Financial Provisions) Act, 1938.—See p. 391, *ante*.

14. Effect on certain contributions of a house ceasing to be available as such.—(1) Where under any of the provisions specified in the Second Schedule to this Act (a) (being provisions in pursuance of which payments may be made by the Minister or by local authorities by way of financial assistance in connection with the provision

or improvement of housing accommodation) a periodical payment would, apart from this section, have fallen to be made after the passing of this Act in respect of a house to any person other than a local authority, that payment shall not be made if, before the making thereof, the Minister is satisfied that, during the whole or the greater part of the period to which the payment is referable, the house has not been available as a dwelling fit for habitation (b) :

Provided that nothing in this subsection shall prevent the making of a periodical payment in respect of any house if the Minister is satisfied that the house could not with reasonable diligence have been made available, during the whole or the greater part of the period to which the payment is referable, as a dwelling fit for habitation.

Any question as to the period to which any payment is referable shall be determined for the purposes of this subsection by the Minister.

(2) Where the power or duty of a local authority to make any payment is wholly or partly discharged by virtue of the preceding subsection, the Minister may make such consequential reductions as he thinks appropriate in any sum payable by him to the authority.

(3) In this section the expression "local authority" includes any authority which is a local authority for the purposes of the Housing (Rural Workers) Acts, 1926 to 1942 (c).

NOTES TO SECTION 14

General Note.—The purpose of this section is to enable the Minister to stop periodical payments to persons, other than local authorities, under any of the enactments set out in the Second Schedule, p. 463, *post*, which are payable in respect of houses which have been war damaged where the Minister is satisfied that the owner has not shown reasonable diligence in making repairs.

(a) "**Second Schedule to this Act.**"—The enactments listed in the Second Schedule are :

Section 19 of the Housing, Town Planning, etc., Act, 1919 (13 Halsbury's Statutes 958).

Section 2 of the Housing, etc., Act, 1923 (13 Halsbury's Statutes 984).

Section 3 of the Housing, etc., Act, 1923 (13 Halsbury's Statutes 986).

Sections 1 and 2 of the Housing (Rural Workers) Act, 1926 (13 Halsbury's Statutes 1162).

Section 94 (3) of the principal Act, p. 225, *ante*.

Section 3 of the Housing (Financial Provisions) Act, 1938, p. 391, *ante*.

(b) "**Fit for habitation.**"—See note (h) to s. 25 of the principal Act, *ante*. See also reference to *Summers v. Salford Corpn.*, [1943] A. C. 283 ; [1943] 1 All E. R. 68 ; 107 J. P. 35 ; 2nd Digest Supp., in notes to s. 2 of that Act, p. 50, *ante*.

(c) “**Housing (Rural Workers) Acts, 1926 to 1942.**”—These Acts expired on the 30th September, 1945. No contributions are payable under those Acts save in respect of application made before that date. For text of the 1926 Act see 13 Halsbury's Statutes 1162.

15. Effect on certain contributions of a house vesting in a local authority.—(1) Where a house which has been provided by a housing association (a) under arrangements made with a local authority under section ninety-four of the principal Act (b) becomes vested in that authority after the passing of this Act—

- (a) no further sums shall, after the time of the vesting, become payable by the Minister or by the authority in respect of the house under subsection (3) of the said section ninety-four ; and
- (b) the Minister may, if he thinks fit, pay to the authority a sum equivalent to any contribution which would, after the said time, have become payable to the authority in respect of the house under the said subsection (3) if all conditions precedent to the payment of that contribution had been at all material times observed.

(2) Where a house which has been provided under arrangements made by a local authority under section three of the *Housing (Financial Provisions) Act, 1938* (c), becomes vested in that authority after the passing of this Act—

- (a) no further sums shall, after the time of the vesting, become payable by the Minister or by the authority in respect of the house under the said section three ; and
- (b) whether the conditions (d) specified in paragraphs (a), (b) and (c) of subsection (1) of the said section three are observed or not, the Minister may, if he thinks fit, pay to the authority a sum equivalent to any contribution which would, after the said time, have become payable by him to the authority in respect of the house if all conditions precedent to the payment of that contribution had been at all material times observed.

NOTES TO SECTION 15.

General Note.—Where houses provided by housing associations under s. 94 of the principal Act, p. 224, *ante*, or by a private developer under s. 3 of the *Housing (Financial Provisions) Act, 1938*, p. 391, *ante*, become vested in the local authority the Minister may continue Exchequer assistance to the local authority. For provisions where houses provided by a development

corporation under the New Towns Act, 1946, become vested in the local authority, by the operation of that Act, see s. 8 (3) thereof.

(a) "**Housing Association.**"—See definition contained in s. 188 (1) of the principal Act, p. 311, *ante*. Under s. 8 (1) of the New Towns Act, 1946, a development corporation under that Act is to be deemed to be a "housing association" within the meaning of the principal Act.

(b) **Section 94 of the principal Act.**—Power of a local authority to make arrangements with a housing authority to provide any housing accommodation which the authority can provide. See p. 224, *ante*.

(c) **Section 3 of the Housing (Financial Provisions) Act, 1938.**—Contributions in respect of agricultural housing provided by persons other than local authorities. See p. 391, *ante*.

(d) "**Conditions.**"—These conditions are that the house provided must be :

- (a) reserved for the agricultural population ;
- (b) let at a rent not exceeding what would have been charged if the house had been provided by the local authority ;
- (c) suitable in size and construction.

REVIEW OF CONTRIBUTIONS.

16. Review of contributions.—(1) Subject to the provisions of this section, the Minister may from time to time by order provide, in relation to new houses completed after such date, not being earlier than the thirtieth day of June, nineteen hundred and forty-seven, as may be specified in the order—

- (a) for reducing all or any of the standard amounts of the annual exchequer contribution (a) ;
- (b) for reducing all or any of the normal amounts of the annual rate fund contribution (b) ;
- (c) for reducing the amount of county council contributions (c) ;
- (d) for reducing the number of years for which any such contributions are to be paid.

(2) The provisions of any such order shall be such as to secure, except in relation to houses for which the standard amount of the annual exchequer contribution is the special standard amount (d), or that amount as increased under section six (e) of this Act, that the proportion which the standard amount of the annual exchequer contribution for any house bears to the normal amount of the annual rate fund contribution for that house is not more than three to one and is not less than two to one.

(3) Before the Minister makes an order (f) under this section, a draft thereof shall be laid before the Commons House of Parliament, and the order shall not be made unless that House, within the period of forty days beginning

with the day on which the draft is laid before it, passes a resolution approving the draft.

In reckoning any such period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which the Commons House is adjourned for more than four days.

(4) No draft of an order under this section shall be laid before the Commons House of Parliament before the first day of January, nineteen hundred and forty-seven.

(5) The Minister shall, immediately after the beginning of December in the year nineteen hundred and forty-six, consider whether it is expedient that an order should be made under this section, and, if after such consideration he is of opinion that no such order should for the time being be made, he shall lay before the Commons House of Parliament a report stating his decision.

(6) Before laying a draft of an order under this section before the Commons House of Parliament, the Minister shall consult with such associations of local authorities as appear to him to be concerned and with any local authority with whom consultation appears to him to be desirable.

(7) Section one hundred and nine (*g*) of the principal Act and section five (*h*) of the Housing (Financial Provisions) Act, 1938, are hereby repealed; and this repeal shall be deemed to have taken effect as from the end of September, nineteen hundred and forty-four.

NOTES TO SECTION 16.

General Note.—This section provides for a review of Exchequer and rate funds contributions from time to time in respect of houses completed after a date to be determined by the Minister not being earlier than the 30th June, 1947. The Minister is to consider immediately after the beginning of December, 1946, whether an order to effect such review is expedient; if he decides against such an order he is to lay a report stating his decision before the Commons. Should he decide to make an order, or when he does decide to make an order, it is to be laid in draft before the Commons and will require a resolution approving the draft within forty days before it is made. Any such order is to provide that the Exchequer contribution is to be in relation to the rate fund contribution in the proportion of not more than three to one and not less than two to one, except where the special standard amount or that amount increased under s. 6, p. 435, *ante*, is concerned.

(a) “**Exchequer contributions.**”—For the amounts of these contributions under this Act see ss. 2 to 4 and 6, pp. 430, 435, *ante*.

(b) “**Rate fund contributions.**”—See s. 5, p. 433, *ante*.

(c) “**County council contributions.**”—See s. 8, p. 438, *ante*.

(d) “**Special standard amount.**”—This is the amount payable under s. 3, p. 430, *ante*, in respect of agricultural housing and in county districts where rents are substantially below average and the expenditure on housing imposes an undue burden.

(e) **Section 6 of this Act.**—Provision for increased contribution in respect of expenditure on rights of support, p. 435, *ante*.

(f) **“Makes an order.”**—As to the construction of an “order,” see Interpretation Act, 1889, s. 31 (18 Halsbury’s Statutes 1003). The Rules Publication Act, 1893, does not apply to an order under this section; see s. 1 (4) of that Act; 118 Halsbury’s Statutes, 1016.

(g) **Section 109 of the Principal Act.**—Provision for review of contributions under that Act, p. 240, *ante*.

(h) **Section 5 of the Housing (Financial Provisions) Act, 1938.**—Provision for review of contributions amending s. 109 of the principal Act.

GRANTS FOR HOUSES NOT CONSTRUCTED BY TRADITIONAL METHODS.

17. Grants towards the cost of providing houses constructed by special methods approved by the Minister.—(1) Where, with a view to expediting the provision of housing accommodation, the Minister approves for the purposes of this section any method of constructing houses which differs from the traditional methods, and—

- (a) at any time before the end of December, nineteen hundred and forty-seven, a local authority submit to the Minister proposals for providing, in the exercise of their functions under Part V of the principal Act, a new house constructed by a method so approved;
- (b) the Minister is satisfied that the cost to the authority of providing the house will exceed the cost which the authority would incur in providing on the same site a house of similar size constructed by a traditional method, and that the amount of the excess will be substantial; and
- (c) the Minister, with the consent of the Treasury, determines that the authority ought to receive a grant under this section towards defraying the excess, and determines the amount of the grant which is appropriate for that purpose;

then, upon the completion of the house, the Minister shall make to the authority in respect of the house a grant of the amount so determined.

In the following provisions of this Act the expression “capital grant” (a) means a grant payable under this section.

(2) The provisions of this section shall be without prejudice to any power or duty of the Minister to make any payment in respect of a house under any other provision of this Act.

NOTES TO SECTION 17

General Note.—By this section the Minister is enabled to make a capital grant where, with a view to expedition in the provision of accommodation, a local authority has provided, with the Minister's approval, a house constructed by non-traditional methods the cost of which has proved excessive in comparison with houses constructed by ordinary methods. This grant is subject to Treasury approval and the submission of the project for the Minister's approval must take place before January 1, 1948. For similar provision to meet losses incurred by the Minister of Works in providing local authorities with materials of, or houses constructed of materials of, a non-traditional character at charges which are less than full cost because of the excess of cost over traditional methods, see s. 3 of the Building Materials and Housing Act, 1945, p. 417, *ante*.

(a) "**Capital grant.**"—This does not rank as an Exchequer contribution ; see para. 2 of the Third Schedule, p. 464, *post*.

HOUSING ASSOCIATIONS.

18. Provisions with respect to housing associations established in pursuance of arrangements made by the Minister.—(1) If, in pursuance of arrangements made by the Minister, there is established after the passing of this Act a housing association (a) whose objects include both the construction of houses and the provision and management of houses, the following provisions of this section shall have effect with respect to that association, and any such association is hereafter in this section referred to as "the association."

(2) If the Minister is satisfied that the total net expenditure of the association in any year, calculated in such manner as he may with the consent of the Treasury determine, being expenditure necessarily incurred by the association—

- (a) for the purpose of the execution of arrangements made with the association under section ninety-four of the principal Act (b) ; or
- (b) for the purpose of the execution of work which the association have been employed by a local authority to undertake in connection with the provision by the authority of housing accommodation ;

cannot be met without the provision of assistance under this subsection, he may, with the approval of the Treasury, make such payments by way of grant to the association as he may determine to be necessary for the purpose of enabling them to meet that expenditure :

Provided that no payment shall be made by the Minister under this subsection in respect of any expenditure incurred by the association for the purpose of the execution of any

arrangements for the provision of houses made with the association under the said section ninety-four (*b*) unless, in respect of each house provided by the association under the arrangements, the association are entitled to receive, in addition to the sums payable by the Minister under subsection (3) of the said section ninety-four, a grant from the appropriate local authority of an amount not less than the annual rate fund contribution (*c*) which, in the opinion of the Minister, would have been payable by the authority in respect of that house if the authority had, in the exercise of their powers to provide housing accommodation, provided the house themselves.

(3) Subject to the provisions of this section, the Treasury may issue to the Minister, out of the Consolidated Fund of the United Kingdom or the growing produce thereof, such sums as are necessary to enable the Minister to make loans to the association for the purpose of enabling or assisting the association to defray—

- (a) any preliminary expenses incurred in connection with the establishment of the association ;
- (b) any expenses incurred by the association for the purpose of the execution of arrangements made under section ninety-four of the principal Act (*b*) ;
or
- (c) any expenses of the association in respect of work which the association have been employed by a local authority to undertake in connection with the provision by the authority of housing accommodation.

(4) The power of the Treasury, under subsection (1) of section one (*d*) of the Building Materials and Housing Act, 1945, to advance money to the Minister of Works out of the Consolidated Fund of the United Kingdom or the growing produce thereof shall include power, subject to and in accordance with the provisions of that section, to advance money to that Minister for the purpose of defraying his expenses in carrying out work on behalf of and at the request of the association, being—

- (a) work which the association have been employed by a local authority to undertake in connection with the provision by the authority of housing accommodation ; or
- (b) work in connection with the execution of arrangements made under section ninety-four of the principal Act (*b*).

(5) The total amount issued by the Treasury under subsection (3) of this section, after deducting any sums which have been repaid, shall not at any time exceed fifteen million pounds.

(6) For the purpose of providing sums to be issued under subsection (3) of this section, the Treasury may, at any time, if they think fit, raise money in any manner in which they are authorised to raise money under the National Loans Act, 1939 (*e*) ; and any securities created and issued to raise money under this subsection shall be deemed for all purposes to have been created and issued under the National Loans Act, 1939.

(7) The Minister shall, as respects each financial year in which sums are outstanding from the Exchequer in respect of money issued to him under subsection (3) of this section, prepare, in such form and manner as the Treasury may direct, an account of those sums.

Any account prepared under this subsection shall, on or before the thirtieth day of November next following the expiration of the financial year in question, be transmitted to the Comptroller and Auditor General, who shall examine and certify the account and lay copies thereof, together with his report thereon, before Parliament.

NOTES TO SECTION 18

General Note.—This section relates to housing associations established after the 18th April, 1946, under arrangements made by the Minister ; and provides for contributions to be made towards the expenses of such association in connection with its establishment, or incurred for the purpose of executing arrangements under s. 94 of the principal Act, p. 224, *ante*, or expenses in respect of work undertaken in connection with provision of housing accommodation by a local authority.

(a) “**Housing Association.**” —For definition see s. 188 (1) of the principal Act, p. 311, *ante*. Note that under this section the objects of the association must include “both the construction of houses and the provision and management of houses.” Under s. 8 (1) of the New Towns Act, 1946, a development corporation is to be deemed to be a housing association for the purposes of the principal Act. For the power of the Minister to pay to such development corporation sums equal to the Exchequer contributions under this Act see s. 8 (2) of that Act.

(b) **Section 94 of the principal Act.**—Power of local authorities to make arrangements with housing associations to provide any housing accommodation which the authority can provide, p. 224, *ante*.

(c) “**Annual rate fund contribution.**” —As to rate fund contributions under this Act, see s. 5, p. 433, *ante*. The proviso makes the Exchequer grant dependent on the association being entitled to receive the equivalent of the rate fund contribution from a local authority. This is not the case in payments to development corporations under s. 8 (2) of the New Towns Act, 1946. Where rate fund contributions are not forthcoming in the case of development corporations the Minister may make further grants to the corporation under s. 12 (2) of that Act.

(d) Section 1 (1) of the Building Materials and Housing Act, 1945.—See p. 415, *ante*.

(e) National Loans Act, 1939.—See 32 Halsbury's Statutes 1235.

MISCELLANEOUS AND GENERAL.

19. Duty of local authorities to reserve houses for agricultural population.—(1) Where any annual exchequer contributions (a) to which this section applies are payable to the council of a county district, the council shall secure that a number of houses equal to the number of houses in respect of which such contributions are payable to the council is reserved for members of the agricultural population (b), except in so far as the demand for housing accommodation in the district on the part of members of the agricultural population can be satisfied without such reservation.

(2) This section applies to any annual exchequer contribution the amount of which has been determined on the assumption that the house in respect of which it is payable was provided by way of housing accommodation required for the agricultural population (b) of the county district concerned.

(3) Where, on the ground that the council of a county district have failed to discharge the duties imposed on them by this section, the Minister so exercises his powers under section one hundred and thirteen (c) of the principal Act that either—

- (a) the amount of the annual exchequer contribution payable to the council in respect of a house for any year is reduced ; or
- (b) the annual exchequer contribution which would otherwise have been payable to the council in respect of a house for any year is not payable ;

no county council contribution shall be payable to the council in respect of that house for that year.

NOTES TO SECTION 19

General Note.—Where a local authority receive an Exchequer subsidy on the ground that the houses provided are required for the agricultural population they must reserve an equal number of houses for the agricultural population unless the needs of such population can be satisfied without such reservation. Where the county district council fail to make such reservation and the Minister withholds or varies the Exchequer contribution in exercise of his powers under s. 113 of the principal Act, p. 245, *ante*, the county council contribution under s. 8, p. 438, *ante*, will not be payable. For similar provisions in the principal Act see s. 85 (4) thereof, p. 207, *ante*, and s. 115 (5), p. 248, *ante*.

(a) “**Annual exchequer contribution.**”—The contribution referred to in this section is that of the special standard amount made payable by s. 3 (1) of this Act, p. 430, *ante*.

(b) “**Agricultural population.**”—For definition, see s. 115 (2) of the principal Act, p. 247, *ante*. That definition is made applicable to this Act by s. 25 (1), p. 459, *post*.

(c) **Section 113 of the principal Act.**—This section empowers the Minister to withhold or vary Exchequer contributions where a local authority is in default of any of its duties under the Housing Acts, p. 245, *ante*. See also s. 20 of this Act, *post*.

20. Power of Minister to withhold or reduce contributions in case of default.—Without prejudice to the powers of the Minister under section one hundred and thirteen (a) of the principal Act, in a case where a local authority have failed to discharge their duty to make any contribution which they are required to make by virtue of the Housing Acts, to reduce the amount of any Exchequer contribution, or to suspend or discontinue the payment of any such contribution, subsection (4) of section six (b) of the Housing (Financial Provisions) Act, 1938, is hereby repealed.

NOTES TO SECTION 20

General Note.—The right to receive an Exchequer contribution is no longer conditional on the local authority making a rate fund contribution. Where the authority fail to make a rate fund contribution the grant of an Exchequer contribution is within the discretion of the Minister, who may under s. 113 of the principal Act, p. 245, *ante*, continue, suspend, discontinue or reduce the Exchequer contribution as he thinks just. The repeal of s. 6 (4) of the Housing (Financial Provisions) Act, 1938, p. 394, *ante*, does not revive the words of s. 114 of the principal Act, p. 246, *ante*, repealed by that subsection. See s. 11, Interpretation Act, 1889; 18 Halsbury's Statutes 994.

(a) **Section 113 of the principal Act.**—Power of the Minister to withhold or vary Exchequer contributions where a local authority is in default of any of its duties under the Housing Acts, p. 245, *ante*.

(b) **Section 6 (4) of the Housing (Financial Provisions) Act, 1938.**—See p. 394, *ante*; see also s. 114 of the principal Act, p. 246, *ante*.

21. Amendment of law as to housing accounts.—

(1) Where a house is for the time being vested in a local authority (a) by reason of the default of any person in carrying out the terms of any arrangements under which assistance in respect of the provision, reconstruction or improvement of the house has been given under any enactment relating to housing, the house shall be deemed for the purposes of section one hundred and twenty-eight of the principal Act (b) (which specifies the houses with respect to which a local authority are required to keep a Housing Revenue Account) to be a house which has been provided by the authority under Part V of the principal Act.

(2) A local authority who are required to keep a Housing Revenue Account (c) shall carry to the credit of that account amounts equal to any sums paid to the authority under—

- (a) paragraph (a) of subsection (1) of section one of the Housing etc. Act, 1923 (d) ;
- (b) subsection (1) of section four of the Housing (Rural Workers) Act, 1926 (e) ; or
- (c) section nine of the Housing (Financial Provisions) Act, 1938 (f) ;

in respect of a house which, at the time when the payment is made, is vested in the authority.

(3) Where any surplus is shown in a Housing Revenue Account (c) at the end of any financial year, the local authority shall have power to apply that surplus, in whole or in part, to any purpose which the Minister may approve, being a purpose connected with the provision of housing accommodation ; and so much only of any surplus as remains after effect has been given to the preceding provisions of this subsection shall be available for application in accordance with section one hundred and thirty of the principal Act (g) (which relates to the disposal of surpluses shown in Housing Revenue Accounts).

(4) Section one hundred and thirty-one of the principal Act (h) (which requires certain local authorities to carry sums to the credit of the Housing Repairs Account in each financial year) shall, in relation to the financial year beginning on the first day of April, nineteen hundred and forty-six and each subsequent financial year, have effect as if for the words “ an amount equal to fifteen per cent. of the annual rent (exclusive of any amount included therein in respect of rates or water charges) ” there were substituted the words “ four pounds ”.

(5) A local authority (a) shall not, after the passing of this Act, be required by virtue of section one hundred and thirty-two of the principal Act (i) to keep a Housing Equalisation Account unless they think it desirable to do so, and accordingly—

- (a) in relation to periods after the passing of this Act, subsection (1) of the said section shall have effect as if after the word “ shall ”, where that word first occurs in the subsection, there were inserted the words “ if they think it desirable ”, and as if after the word “ shall ”, where that word secondly occurs in the subsection, there were inserted “ if they keep such an account ” ; and

(b) subsection (2) of the said section is hereby repealed.

(6) Where a local authority close their Housing Equalisation Account, they shall carry to the credit of their Housing Revenue Account any sums standing to the credit of their Housing Equalisation Account when it is closed.

NOTES TO SECTION 21

General Note.—Where a house, in respect of which assistance has been given by the local authority, becomes vested in the authority, by reason of the default of the person receiving the assistance, the income and expenditure in respect of such house must be shown in the Housing Revenue Account; and any sums received by the authority under the enactments referred to in sub-s. (2) must be credited thereto. Sub-s. (2) grants to the Minister the power to approve the application of surpluses in the Housing Revenue Account to any purpose connected with the provision of housing accommodation. Sub-s. (3) amends the minimum yearly sum to be carried to the Housing Repairs Account in respect of each house from 15 per cent. of the annual rent to £4 per house. The Housing Equalisation Account is made optional by sub-s. (4). Since Exchequer and rate fund contributions are now both for sixty years and coincide with the normal repayment period of housing loans an equalisation account is no longer necessary.

(a) “**Local Authority.**”—See s. 1 of the principal Act, p. 47, *ante*, and notes thereto; for local authorities for the purposes of Part I in London see s. 103, p. 230, *ante*.

(b) **Section 128 of the principal Act.**—Obligation to keep a Housing Revenue Account, p. 256, *ante*.

(c) “**Housing Revenue Account.**”—For the provisions of the principal Act relating to this account see ss. 128 to 130, p. 256 *et seq.*, *ante*.

(d) **Section 1 (1) (a) of the Housing, etc., Act, 1923.**—Power of the Minister to assist local authorities to make grants or pay annual sums to persons or building societies in respect of houses provided under s. 2 of that Act. For text of the Housing, etc., Act, 1923, see 13 Halsbury's Statutes 984.

(e) **Section 4 (1) of the Housing (Rural Workers) Act, 1926.**—Power of the Minister to assist local authorities to make grants or loans to private individuals to promote the provision of housing accommodation for agricultural workers. For the text of this Act see 13 Halsbury's Statutes 1162. The Housing (Rural Workers) Acts, 1926 to 1942, expired on the 30th September, 1945, and no contributions are now payable under that Act save in respect of applications made before that date. The text of the Acts is not reprinted in this edition.

(f) **Section 9 of the Housing (Financial Provisions) Act, 1938.**—Provides for the continuation of Exchequer payments to local authorities in respect of houses provided under s. 2 of the Housing, etc., Act, 1923 (see note (d) above), which have become vested in the local authority through the default of the person in receipt of the assistance of the authority. For s. 9 see p. 439, *ante*.

(g) **Section 130 of the principal Act.**—See p. 262, *ante*.

(h) **Section 131 of the principal Act.**—See p. 262, *ante*.

(i) **Section 132 of the principal Act.**—Requirement that the authority should keep a Housing Equalisation Account, p. 264, *ante*. The purpose of this account was to equalise the income of the Housing Revenue Account derived from Exchequer and rate fund contributions over any period during which loan charges required to be debited to that account were payable.

It is now made optional since under this Act Exchequer and rate fund contributions are both for sixty years and coincide with the normal repayment period of housing loans.

22. Provision of housing accommodation in Isles of Scilly.—(1) Without prejudice to his powers under section two hundred and ninety-two of the Local Government Act, 1933 (*a*), the Minister may, upon the application of the council of the Isles of Scilly, by order confer or impose upon that council such functions relating to the provision of housing accommodation in the Isles of Scilly as the Minister thinks appropriate.

(2) An order made under this section may provide for the making by the Minister and by the said council of contributions in respect of houses provided in pursuance of such an order.

(3) An order made under this section may contain such incidental and consequential provisions, including provisions conferring powers or imposing duties on the said council, as the Minister thinks necessary.

(4) An order made under this section may be revoked or varied by a subsequent order made by the Minister on the application of the said Council.

(5) Any order made under this section shall be laid before Parliament immediately after it has been made, and if either House of Parliament, within the period of forty days beginning with the day on which any such order is laid before it, resolves that the order be annulled, the order shall cease to have effect, but without prejudice to the validity of anything previously done thereunder or to the making of a new order.

In reckoning any such period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than four days.

(6) Section one of the Rules Publication Act, 1893 (*b*), shall not apply to any such order.

NOTES TO SECTION 22

(*a*) **Section 292 of the Local Government Act, 1933.**—See 26 Halsbury's Statutes 460.

(*b*) **Section 1 of the Rules Publication Act, 1893.**—See 18 Halsbury's Statutes 1016.

23. Expenses and receipts of Minister.—(1) All sums payable by the Minister under this Act, including any

sum payable by the Minister by virtue of an order made under the last preceding section, but excluding any sum payable by the Minister as a loan, shall be defrayed out of moneys provided by Parliament.

(2) All sums received by the Minister under this Act, and any sums received by him by way of interest on or repayment of any loan made out of money issued to him by the Treasury under this Act, shall be paid into the Exchequer.

(3) Any sums received by the Minister by way of interest on or repayment of any such loan as aforesaid and paid into the Exchequer under the last preceding subsection shall be issued out of the Consolidated Fund of the United Kingdom at such times as the Treasury may direct and shall be applied by the Treasury as follows—

- (a) so much thereof as represents principal shall be applied in redeeming or paying off debt of such description as the Treasury think fit; and
- (b) so much thereof as represents interest shall be applied to the payment of interest which would, apart from this paragraph, have fallen to be paid out of the permanent annual charge for the National Debt.

24. Adaptations of principal Act.—The provisions of the principal Act specified in the Third Schedule to this Act (a) shall have effect subject to the adaptations therein specified.

NOTE TO SECTION 24

(a) **Third Schedule to this Act.**—See p. 464, *post*.

25. Interpretation.—(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say,—

“agricultural population” has the meaning assigned to it by subsection (2) of section one hundred and fifteen of the principal Act (a);

“block of flats” (b) means a building which is a block of flats for the purposes of the Housing (Financial Provisions) Act, 1938.

“housing association” has the meaning assigned to it by section one hundred and eighty-eight of the principal Act (c);

- “local authority” means any authority which is a local authority for the purposes of any provision of the Housing Acts, 1936 to 1944 (*d*);
- “owner” (*e*), in relation to a house, means a person entitled to a freehold interest therein;
- “the principal Act” means the Housing Act, 1936 (*f*);
- “street” (*g*) includes any court, alley, passage or square, whether a thoroughfare or not, and includes a public highway;
- “tenant”, in relation to a house, means a person entitled to a leasehold interest therein, and the expression “leasehold interest” includes an interest subsisting under any tenancy.

(2) In this Act the expression “house” (*h*) includes any part of a building, being a part which is occupied or intended to be occupied as a separate dwelling, and, in particular, includes a flat;

Provided that where a building is designed for permanent use as a single dwelling, it shall be treated as a single house for the purposes of this Act notwithstanding that it is temporarily divided into two or more parts which are occupied or intended to be occupied as separate dwellings (*i*).

(3) References in this Act to any enactment shall be construed as including references to that enactment as amended by any subsequent enactment, including this Act.

NOTES TO SECTION 25

(*a*) **Section 115 (2) of the principal Act.**—In sub-s. (2), “agricultural population” means persons whose employment or latest employment is or was employment in agriculture or in an industry mainly dependent upon agriculture, and includes also the dependants of such persons as aforesaid. The term “agriculture” is defined to include dairy farming and poultry farming and the use of land as grazing, meadow, or pasture land, or orchard or osier land, or woodland, or for market gardens or nursery grounds. See p. 247, *ante*.

(*b*) “**Block of flats.**”—S. 11 (1) (*b*) of the Housing (Financial Provisions) Act, 1938, p. 399, *ante*, defines a “block of flats” to mean a building which contains two or more flats, and which consists of three or more storeys exclusive of any storey constructed for use for purposes other than those of a dwelling; and in that Act any reference to a house is to be construed as including a reference to a flat.

(*c*) **Section 188 of the principal Act.**—See p. 311, *ante*. The definition describes a housing association as a society, body of trustees or company established for the purpose of, or amongst whose objects or powers are included those of, constructing, improving or managing or facilitating or encouraging the construction or improvement of, houses for the working classes, being a society, body of trustees or company who do not trade for profit or whose constitution or rules prohibit the issue of any capital with interest or dividend exceeding the rate for the time being prescribed by the

Treasury, whether with or without differentiation as between share and loan capital.

(d) "**Local authority for the purposes of the Housing Acts.**"—See s. 1 of the principal Act, p. 47, *ante*, and notes thereto.

(e) "**Owner.**"—See also definition in s. 188 of the principal Act, p. 311, *ante*.

(f) "**The principal Act.**"—For text of the Housing Act, 1936, see p. 38, *ante*.

(g) "**Street.**"—S. 188 of the principal Act, p. 311, *ante*, defines "street" to include any court, alley, passage, square or row of houses, whether a thoroughfare or not.

(h) "**House.**"—This definition is similar to that contained in s. 188 (2) of the principal Act, p. 314, *ante*, which is the definition of that Act for the purposes of the provision of accommodation.

(i) **Proviso to sub-s. (2).**—This proviso relates to "duplex" houses which are temporarily divided into two or more dwellings. They are to be treated for the purposes of this Act as one house.

26. Short title, citation and extent.—(1) This Act may be cited as the Housing (Financial and Miscellaneous Provisions) Act, 1946, and the Housing Acts, 1936 to 1944, and this Act may be cited together as the Housing Acts, 1936 to 1946.

(2) This Act shall not extend to Scotland or to Northern Ireland.

SCHEDULES.

FIRST SCHEDULE.

(Sections 4 and 5.)

PROVISIONS FOR ASCERTAINING THE VALUE OF CERTAIN SITES, AND THE AMOUNT OF CONTRIBUTIONS IN RESPECT OF FLATS ON SUCH SITES.

PART I.

1. For the purposes of this Act the cost of a site (a) as developed shall be—

- (a) in the case of a site purchased by a local authority under any enactment relating to housing, the expenditure incurred by the authority in purchasing the site; and
- (b) in any other case, the value of the site as certified by the Minister; plus, in either case, a sum representing any such expenses as are specified in paragraph 2 of this Part of this Schedule.

2. The said expenses are—

- (a) any such expenses as in the opinion of the Minister are properly incurred for making the site suitable for the purpose of providing the houses to be provided thereon, being expenses incurred by the local authority in the construction or the

widening of streets, the construction of sewers or the execution of any special works rendered necessary by the physical characteristics of the land ; and

- (b) any such expenses (b) incurred in respect of other matters as the Minister, with the consent of the Treasury, may determine to be expenses properly forming part of the cost of making the site suitable for the said purpose.

3. In determining for the purposes of this Part of this Schedule the amount of any such expenses as aforesaid, the Minister shall have regard to any estimate of those expenses submitted to him by the local authority.

4. Where any such expenses as aforesaid have been incurred in relation to a site, the value of the site shall be taken for the purposes of this Part of this Schedule to be the value of the site in the condition in which it would be if those expenses had not been incurred.

NOTES TO FIRST SCHEDULE, PART I

(a) "**Site.**"—For the determination of what constitutes a separate site see s. 4 (4), p. 433, *ante*.

(b) "**Expenses.**"—The Minister is prepared to include the following :—

- (a) Legal expenses and arbitration costs in connection with the purchase of the site ;
- (b) Compensation and removal expenses properly paid to displaced tenants ;
- (c) The net cost of clearing the site and stopping existing streets and services ;
- (d) The cost of supervision and technical fees incurred in connection with the survey of the site and the construction of roads and sewers.

See Appendix II (1) (c) to Circular 118/46 of the 12th July, 1946, p. 590, *post*.

PART II.

Table.

<i>Cost per acre of site as developed.</i>	<i>Standard amount of annual Exchequer contribution.</i>	<i>Normal amount of annual rate fund contribution.</i>
More than £1,500 but not more than £4,000 . . .	£ s. d. 28 10 0	£ s. d. 9 10 0
More than £4,000 but not more than £5,000 . . .	30 0 0	10 0 0
More than £5,000 but not more than £6,000 . . .	30 15 0	10 5 0
More than £6,000 but not more than £8,000 . . .	31 10 0	10 10 0
More than £8,000 but not more than £10,000 . . .	33 15 0	11 5 0
More than £10,000 but not more than £12,000 . . .	35 5 0	11 15 0
More than £12,000 . . .	35 5 0, increased by £1 10s. for each additional £2,000, or part of £2,000, in the cost per acre of the site as developed.	11 15 0, increased by 10s. for each additional £2,000, or part of £2,000, in the cost per acre of the site as developed.

PART III.

Table.

<i>Cost per acre of site as developed.</i>	<i>Standard amount of annual Exchequer contribution.</i>	<i>Normal amount of annual rate fund contribution.</i>
More than £1,500 but not more than £4,000 . . .	£ s. d. 35 10 0	£ s. d. 13 0 0
More than £4,000 but not more than £5,000 . . .	37 0 0	13 10 0
More than £5,000 but not more than £6,000 . . .	37 15 0	13 15 0
More than £6,000 but not more than £8,000 . . .	38 10 0	14 0 0
More than £8,000 but not more than £10,000 . . .	40 15 0	14 15 0
More than £10,000 but not more than £12,000 . . .	42 5 0	15 5 0
More than £12,000 . . .	42 5 0 increased by £1 10s. for each additional £2,000, or part of £2,000, in the cost per acre of the site as developed.	15 5 0 increased by 10s. for each additional £2,000, or part of £2,000, in the cost per acre of the site as developed.

SECOND SCHEDULE.

(Section 14.)

PROVISIONS IN PURSUANCE OF WHICH FINANCIAL ASSISTANCE MAY BE GIVEN BY THE MINISTER OR BY LOCAL AUTHORITIES.

Section nineteen of the Housing, Town Planning, &c., Act, 1919 (*a*).

Section two of the Housing, &c., Act, 1923 (*b*).

Section three of the Housing, &c., Act, 1923 (*b*).

Sections one and two of the Housing (Rural Workers) Act, 1926 (*c*).

Sub-section (3) of section ninety-four of the Housing Act, 1936 (*d*).

Section three of the Housing (Financial Provisions) Act, 1938 (*e*).

NOTES TO SECOND SCHEDULE

(*a*) **Section 19, Housing, Town Planning, etc., Act, 1919.**—For the text of this Act see 13 Halsbury Statutes 956.

(*b*) **Section 2, Housing, etc., Act, 1923.**—For text of this Act see 13 Halsbury Statutes 984.

(*c*) **Sections 1 and 2, Housing (Rural Workers) Act, 1926.**—For text of this Act see 13 Halsbury's Statutes 1162.

(*d*) **Section 94 (3) of the principal Act.**—See p. 225, *ante*.

(*e*) **Section 3, Housing (Financial Provisions) Act, 1938.**—See p. 391, *ante*.

THIRD SCHEDULE.

(Section 24.)

ADAPTATIONS OF PRINCIPAL ACT.

1. In the principal Act, the expression "the Housing Acts" shall, unless the context otherwise requires, be construed as including this Act (a).

2. For the purposes of the principal Act the expression "Exchequer contribution" (b) shall include any sum, other than a capital grant (c), payable by the Minister to a local authority (d) under this Act.

3. The following provisions of the principal Act, that is to say—

- (a) sub-section (2) of section eighty-nine (e) (which relates to agreements by county councils for assisting rural district councils in providing housing accommodation);
- (b) sub-section (3) of section one hundred and sixty-nine (f) (which relates to the transfer of the powers of rural district councils to county councils); and
- (c) sub-section (2) of section one hundred and seventy-two (g) (which relates to the transfer to county councils of the powers of the councils of county districts other than rural districts);

shall have effect as if the references therein to section one hundred and five (h) of that Act included references to the provisions of this Act relating to annual Exchequer contributions.

4. In each of the said sub-sections, the expression "a local authority" (i) shall mean, and shall be deemed always to have meant, the local authority whose powers are, by virtue of the agreement or order in question, exercisable by the county council.

5. The following provisions of the principal Act, that is to say—

- (a) section eighty-six (j) (which relates to the power of the Minister to impose conditions on the sale of houses by a local authority);
- (b) sub-section (1) of section one hundred and twenty-nine (k) (which relates to the sums which are credited and debited to the Housing Revenue Account); and
- (c) sub-section (2) of section one hundred and thirty (l) (which relates to the disposal of balances in the Housing Revenue Account);

shall have effect as if any reference in those provisions to the contributions referred to in the Eighth Schedule (m) to the principal Act included a reference to annual rate fund contributions (n) under this Act.

NOTES TO THIRD SCHEDULE

(a) "**Housing Acts.**"—See definition contained in s. 188 (1) of the principal Act, p. 311, *ante*. In addition to the Acts mentioned in s. 188 (1) the definition also includes the Housing (Financial Provisions) Act, 1938, p. 385, *ante*, the Housing (Temporary Provisions) Act, 1944, p. 401, *ante*, and this Act.

(b) "**Exchequer contribution.**"—See s. 188 (1) of the principal Act, p. 311, *ante*, and notes thereto.

(c) "**Capital grant.**"—See s. 17 (1), p. 450, *ante*.

(d) "**Local authority.**"—See s. 1 of the principal Act, p. 47, *ante*, and notes; for authorities in London for the purposes of Part V see s. 103 of that Act, p. 230, *ante*.

(e) **Section 89 (2) of the principal Act.**—See p. 214, *ante*.

(f) **Section 169 (3) of the principal Act.**—See p. 295, *ante*.

(g) **Section 172 (2) of the principal Act.**—See p. 299, *ante*.

(h) **Section 105 of the principal Act.**—Provides for the payment of Exchequer contributions under the principal Act; see p. 235, *ante*.

(i) "**Local authority.**"—The effect of those provisions is that county council becomes a local authority for the purposes of the provision of housing accommodation. As to local authorities generally, see s. 1 of the principal Act and the notes thereto.

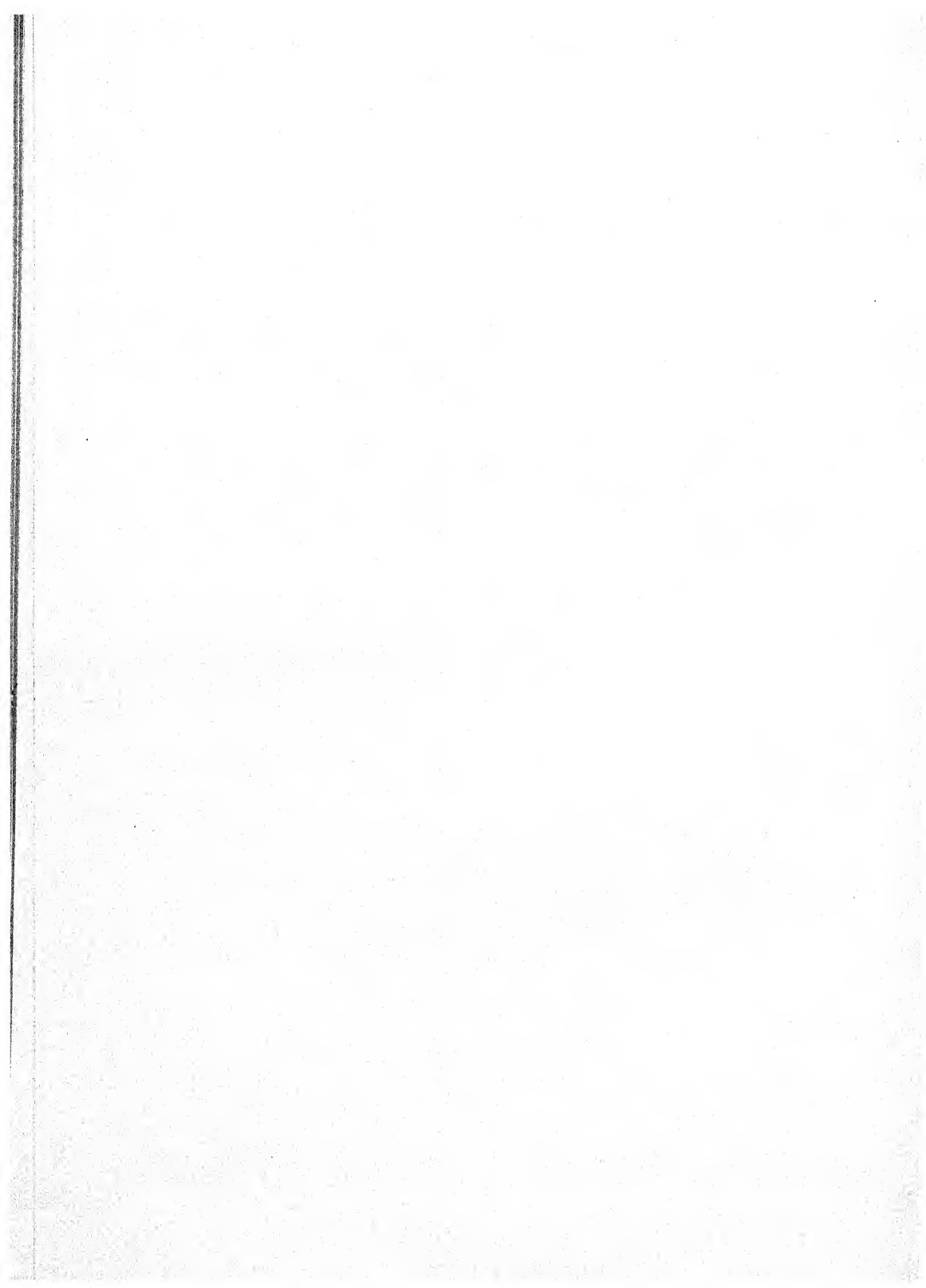
(j) **Section 86 of the principal Act.**—See p. 209, *ante*.

(k) **Section 129 (1) of the principal Act.**—See p. 258, *ante*.

(l) **Section 130 (2) of the principal Act.**—See p. 262, *ante*; but see also s. 21 (3) of this Act, p. 456, *ante*.

(m) **Eighth Schedule to the principal Act.**—See p. 341, *ante*.

(n) **Annual rate fund contributions.**—For provisions, as to rate fund contributions under this Act see ss. 5 to 8, pp. 433 *et seq.*, *ante*.



PART 4

STATUTORY RULES AND ORDERS

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The County Councils (Assisted Schemes for the Housing of Employees) Regulations, 1920.

Dated March 5th, 1920.

S. R. & O., 1920, No. 336.

To the councils of the several administrative counties in England and Wales :—

And to all others whom it may concern.

Whereas by sub-section (1) of section 7 of the Housing, Town Planning, etc., Act, 1919, it is enacted (amongst other things) that if it appears to the Local Government Board that the carrying out of any scheme approved by the Board for the provision of houses for persons in the employment of, or paid by, a county council, or a statutory committee thereof, has resulted or is likely to result in a loss, the Board shall, if the scheme is carried out within such period after the passing of that Act as may be specified by the Board with the consent of the Treasury, pay or undertake to pay to the county council, out of moneys provided by Parliament, such part of the loss as may be determined to be so payable under regulations made by the Board with the approval of the Treasury, subject to such conditions as may be prescribed by those regulations ;

And whereas by sub-section (2) of the said section 7, as altered by section 4 of the Housing (Additional Powers) Act, 1919, it is enacted that the regulations shall provide that the amount of any annual payment to be made under the section shall, in the case of a scheme for the provision of houses for persons in the employment of, or paid by, a county council, or a statutory committee thereof, be an amount equivalent during the period ending on the 31st day of March, 1927, to fifty per centum and thereafter to thirty per centum of the annual loan charges as calculated in accordance with the regulations on the total expenditure incurred by the county council for the purposes of the scheme :

Now therefore, the Minister of Health, in pursuance of his powers under the recited enactments and under any other statutes in that behalf, hereby makes the following regulations :—

ARTICLE I.—(1) These regulations may be cited as “ The County Councils (Assisted Schemes for the Housing of Employees) Regulations, 1920.”

(2) The County Councils (Assisted Schemes for the Housing of Employees) Regulations, 1919, are hereby revoked, without prejudice to any right, privilege or liability acquired, accrued or incurred thereunder.

ARTICLE II.—(1) In these regulations, unless the contrary intention appears :—

- (a) The expression “ the Minister ” means the Minister of Health ;
- (b) The expression “ the Act of 1919 ” means the Housing, Town Planning, etc., Act, 1919 ; and
- (c) The expression “ county council ” includes a statutory committee of a county council, the Lancashire Asylums Board, the West Riding of Yorkshire Asylums Board, and any other body constituted for the purpose of the administration of the Lunacy Acts on behalf of any combination of county councils and county borough councils.

(2) The Interpretation Act, 1889, applies to the interpretation of the regulations as it applies to the interpretation of an Act of Parliament.

ARTICLE III.—Subject to the provisions of Article IV. of these regulations :—

- (1) An annual contribution out of moneys provided by Parliament (hereinafter referred to as " the Exchequer subsidy ") shall be made by the Minister towards the cost of carrying out a scheme submitted by a county council, and approved by the Minister, for the provision of houses for persons in the employment of, or paid by, the county council.
- (2) The Exchequer subsidy shall be an amount equivalent during the period ending on the 31st day of March, 1927, to fifty per centum [and thereafter to forty per centum of the annual charges] for interest and repayment of principal, in respect of the aggregate amount of the loans raised by the county council for the purposes of the approved scheme :

Provided that the Minister may reduce the amount of the Exchequer subsidy in any case in which he is satisfied that the capital expenditure incurred by the county council has been excessive.

- (3) The Exchequer subsidy shall be payable in two half-yearly instalments or in such other manner as the Minister may think fit during the periods allowed for the repayment of the loans raised by the county council for the purposes of the approved scheme, and shall be reduced by the Minister so far as may be necessary as and when the period allowed for the repayment of any one of the said loans expires.
- (4) For the purposes of this Article the annual charges in respect of the aggregate amount of the loans raised by the county council shall be ascertained by calculating the total amount which would be annually payable in respect of the several loans for principal and interest if the loans were repayable by equal annual instalments of principal and interest combined :

Provided that, save with the consent of the Minister, the rate of interest shall not for the purposes of this paragraph exceed the rate for the time being in force for loans advanced by the Public Works Loan Commissioners for the purposes of schemes to which section 7 of the Act of 1919 applies.

- (5) The foregoing provisions of this Article shall apply to accumulated funds or capital moneys belonging to a county council and used by them for the purposes of an approved scheme as though such funds or moneys were loans, and for the purpose of the last preceding paragraph the rate of interest in respect of such funds or moneys shall be deemed to be—

- (i) where moneys have been borrowed for the purposes of the scheme from sources other than funds or moneys belonging to the county council, the rate of interest payable in respect of the moneys last previously so borrowed ; and
- (ii) where no moneys have been borrowed for the purposes of the scheme from such sources as aforesaid, the rate in force for loans advanced by the Public Works Loan Commissioners for the purposes referred to in the last preceding paragraph at the date when the funds or moneys were so used.

ARTICLE IV.—(1) The Exchequer subsidy shall cease to be payable—

- (a) in any case in which the Minister is not satisfied that reasonable progress has been made with the carrying into effect of the scheme within twelve months from the passing of the Act of 1919, or such later date as the Minister may allow, regard being had to the supplies of labour and material available from time to time and all other local or general circumstances affecting the carrying into effect of the scheme ; and
- (b) in respect of any scheme or part of a scheme not carried into effect before the expiry of a period of three years from the passing of the Act of 1919, or such later date as the Minister may allow, regard being had to the supplies of labour and material available from time

to time and all other local or general circumstances affecting the carrying into effect of the scheme.

(2) For the purposes of these regulations a scheme or part of a scheme shall be deemed to have been carried into effect when all the houses to be provided thereunder are let or available for letting.

The Housing Accounts Order (Societies and Trusts), 1920.

Dated May 4th, 1920, made by the Minister of Health under section 5 of the District Auditors Act, 1879.

S. R. & O., 1920, No. 683.

Note

This Order has been revoked so far as it relates to Housing Trusts by the amending Order of July 21st, 1921.

To all public utility societies registered under the Industrial and Provident Societies Acts, 1893 to 1913 ;

To the trustees of all housing trusts as defined in the Housing, Town Planning, etc., Act, 1919 ;

And to all others whom it may concern.

Whereas by the Public Utility Societies (Financial Assistance) Regulations, 1919 and 1920, and the Housing Trusts (Financial Assistance) Regulations, 1919 and 1920, the Minister of Health, with the approval of the Treasury, made regulations in pursuance of sub-section 1 of section 19 of the Housing, Town Planning, etc., Act, 1919, with regard to the contributions to be made by the Minister out of monies provided by Parliament, to public utility societies and housing trusts towards the cost of carrying out any approved scheme for the provision of houses for the working classes ;

And whereas by Article VIII. of each of the said regulations it is provided that the societies and the trustees shall keep separate accounts relating to the approved scheme, and it is further provided that the accounts shall be audited by a district auditor in the manner and subject to the provisions therein mentioned.

Now therefore, the Minister of Health, in pursuance of his powers under section 5 of the District Auditors Act, 1879, and all other enactments in that behalf, hereby orders and prescribes, subject to any departure to which he may from time to time assent, as follows :—

ARTICLE I.—This Order may be cited as “ The Housing Accounts Order (Societies and Trusts), 1920.”

ARTICLE II.—In this Order, the expressions “ society ” and “ trust ” have the same meaning as the expressions “ public utility society ” and “ housing trust ” in the Housing, Town Planning, etc., Act, 1919.

ARTICLE III.—(1) The officer charged with the duty of keeping the accounts of the society or trust (hereinafter referred to as the “ accounting officer ”) shall duly make up and balance a separate set of double-entry ledger accounts for the approved housing scheme of the society or trust comprising,—

- A. Personal accounts of the creditors, debtors, and cash officers.
- B. Revenue and net revenue accounts.
- C. Capital account or accounts.

(2) There shall be entered in the ledger a housing (approved scheme) balance sheet in the form prescribed in the First Schedule to this Order.

ARTICLE IV.—Such primary books, as are necessary for keeping account with the several tenants and otherwise for the purposes of recording the transactions which have to be entered in the several ledger accounts, shall be kept by the officer or officers to whom the duties in connection therewith are allotted by the society or trust.

Each officer or other person who receives money or material pertaining to the approved housing scheme shall promptly enter up and duly balance a debit and credit account of his transactions.

ARTICLE V.—(1) The accounts of the approved scheme of the society or trust shall be made up and balanced to the 31st March in each year and submitted to the society or to the trust as soon as may be after that date.

(2) It shall be the duty of the accounting officer to submit these accounts to the district auditor at the time and place appointed by him for the audit.

(3) The officers or others who have personal accounts to render under this Order shall submit such accounts balanced to the 31st March in each case at the time and place appointed for the audit.

ARTICLE VI.—The accounting officer shall prepare and submit to the district auditor at every audit a financial statement in duplicate in the form prescribed in the second schedule to this Order, and shall affix to one of the said statements an audit stamp of the value prescribed in the First Schedule to the District Auditors Act, 1879.

SCHEDULES.

* * * * *

The County Councils (Assisted Schemes for the Housing of Employees) Amendment Regulations, 1924.

Dated 2nd January, 1924, made by the Minister of Health under section 7 of the Housing, Town Planning, etc., Act, 1919, and section 6 of the Housing, etc., Act, 1923.

S. R. & O., 1924, No. 3.

68,739.

The Minister of Health, in pursuance of the powers conferred on him by section 7 of the Housing, Town Planning, etc., Act, 1919, and section 6 of the Housing, etc., Act, 1923, and of all other powers enabling him in that behalf and with the approval of the Treasury, hereby makes the following Regulations:—

1. These Regulations may be cited as the County Councils (Assisted Schemes for the Housing of Employees) Amendment Regulations, 1924, and shall be construed as one with the County Councils (Assisted Schemes for the Housing of Employees) Regulations, 1920 (hereinafter referred to as "the Regulations of 1920").

2. Paragraph (2) of Article III. of the Regulations of 1920 shall have effect as though for the words "and thereafter to thirty per centum of the annual charges" there were substituted the words "and thereafter to forty per centum of the annual charges."

The Housing (Form of Undertaking) Rules, 1924.

Dated 3rd December, 1924, made by the Minister of Health, with the approval of the Treasury, under section 3 (1) and (2) of the Housing (Financial Provisions) Act, 1924.

S. R. & O., 1924, No. 1363.

* * * * *

2. (1) An undertaking for the purposes of sub-section (1) of section 3 of the Housing (Financial Provisions) Act, 1924, shall be authorised by resolution of the local authority.

- (2) The undertaking shall be in the following form :—
The Council, by resolution dated the day of
19 , undertake that the conditions set out in sub-section (1) of
section 3 of the Housing (Financial Provisions) Act, 1924, will be complied with
in relation to the houses to be erected by them at
3. (1) An undertaking by the local authority for the purposes of sub-section (2) of section 3 aforesaid shall be authorised by resolution of the local authority.
- (2) The undertaking shall be in the following form :—
The Council, by resolution dated the day of
19 , undertake that the conditions set out in sub-section (2) of section 3
of the Housing (Financial Provisions) Act, 1924, will be complied with
in relation to the houses the construction of which is being
promoted by the said Council by a subsidy under the said Act.
4. (1) An undertaking by a society, body of trustees, or company for the purposes of sub-section (2) of section 3 aforesaid shall be in writing and under seal.
- (2) The undertaking shall be in the following form :—
The Society [Trustees *or* Company] hereby undertake that
the conditions set out in sub-section (2) of section 3 of the Housing
(Financial Provisions) Act, 1924, will be complied with in relation to
the houses to be erected by them at

The Public Utility Societies Regulations, 1925.

Dated 9th March, 1925, made by the Minister of Health under section 19 of the Housing, Town Planning, etc., Act, 1919.

S. R. & O., 1925, No. 237.

The Minister of Health in pursuance of the powers conferred on him by section 19 of the Housing, Town Planning, etc., Act, 1919, and of all other powers enabling him in that behalf, hereby makes the following Regulations :—

General.

1.—(1) These Regulations may be cited as the Public Utility Societies Regulations, 1925.

(2) The Regulations named in the First Schedule to these Regulations are hereby revoked, so far as they relate to Public Utility Societies, without prejudice, however, to the validity of any undertaking given or other act or thing done thereunder.

2. In these Regulations, unless the contrary intention appears :—

“ The Minister ” means the Minister of Health ;

“ The Commissioners ” means the Public Works Loan Commissioners ;

“ Society ” means a Public Utility Society ;

“ The Act of 1919 ” means the Housing, Town Planning, etc., Act, 1919 ;

“ Local Authority ” means the local authority within the meaning of Part III. of the Housing of the Working Classes Act, 1890, for the district in which the houses are provided or are to be provided by the Public Utility Society ;

“ Scheme ” means a scheme for the provision of houses for the working classes prepared by a society and approved by the Minister under sub-sect. (1) of section 19 of the Act of 1919 ;

“ House ” means a house comprised in a scheme and includes any yard, garden, outhouses and appurtenances belonging thereto.

PART II.

Exchequer Subsidy.

3.—(1) Subject to the provisions of these Regulations and to the discharge by a society of its obligations thereunder the Minister may make out of moneys provided by Parliament an annual contribution (in these Regulations referred to as "the Exchequer subsidy") towards the cost incurred by the society in carrying out a scheme.

(2) The Exchequer subsidy shall during the period ending on the 31st day of March, 1927, be an amount equal to 50 per cent. of the annual charges in respect of interest and repayment of principal on the capital raised by the society under the scheme, and thereafter shall be an amount equal to 30 per cent. of those charges, or, if the conditions set out in the next succeeding paragraph are complied with, an amount equal to 40 per cent.

Provided that—

- (i) in the case of the annual charges incurred by the society before the houses are completed if the balance of those charges, after deducting the Exchequer subsidy, is defrayed out of borrowed moneys, such moneys shall not, for the purposes of this article, be included as part of the capital raised by the society under the scheme;
- (ii) the Minister may reduce the amount of the Exchequer subsidy in any case in which he is satisfied that the capital expenditure incurred by the society has been excessive; and
- (iii) the Minister shall not be under any liability to pay to a society Exchequer subsidy at the rate of 40 per cent. so far as such subsidy is properly attributable to houses already sold by the society, in respect of which the liability of the Minister at the date of the sale has been or will be discharged by virtue of Article 16 of these Regulations.

(3) The conditions upon which the Exchequer subsidy shall, after the 31st day of March, 1927, be 40 per cent. instead of 30 per cent. of the annual charges are—

- (i) that the society shall have paid all debts owing to the Crown in respect of materials supplied by the Department of Building Materials Supply; and
- (ii) that in any case in which the Minister is satisfied that some person, firm, or body corporate carrying on business was instrumental in promoting the society for the purpose of providing houses for persons employed in such business, such person, firm, or body corporate shall, if the Minister so requires, guarantee by way of collateral security the repayment of any loan advanced by the Public Works Loan Commissioners and payment of interest thereon.

(4) The Exchequer subsidy shall be payable (and shall be deemed always to have been payable) half-yearly in arrear (or in such other manner as the Minister may think fit) during a period of 50 years commencing on the 1st day of April or the 1st day of October, as the case may be, immediately preceding such date as the Minister may have fixed or may fix, having regard to the dates on which the several items of capital expenditure on the scheme were from time to time incurred by the society, as the mean date of that expenditure.

(5) For the purposes of these Regulations the annual charges on the capital raised by the society shall be deemed to be the annual charges which would have been payable, by way of equal annual instalments of principal with interest combined, on the like amount of capital if it had been borrowed from the Commissioners on the terms granted for the time being to societies whether the capital has in fact been borrowed from the Commissioners or otherwise provided.

4.—(1) The Exchequer subsidy shall cease to be payable in respect of any scheme or part of a scheme not carried into effect before the expiry of a period of three years from the passing of the Act of 1919, or such later date as the

Minister may allow, regard being had to the supplies of labour and material available from time to time and all other local or general circumstances affecting the carrying into effect of the scheme.

(2) For the purposes of these Regulations a scheme or part of a scheme shall be deemed to have been carried into effect when all the houses to be provided thereunder are let or available for letting.

5. The carrying out of the works shall be subject to the supervision of the Minister, exercised either through his own officers or through the local authority.

6. For the purposes of Article 3 (2) of these Regulations the sum to be included in the capital raised by the society under the scheme in respect of the professional charges paid or to be paid by the society, in connection with the building of the houses and the lay-out of the estate under the scheme, shall not exceed five per cent. of the gross capital expenditure approved by the Minister.

7. The rents to be charged for houses included in the scheme shall be subject to the approval of the Minister, and shall not be altered without the consent of the Minister.

8.—(1) The rules of the society and any amendment thereof shall be subject to the approval of the Minister.

(2) The rules of the society shall, unless the Minister otherwise allows, be so framed as to give effect to the following provisions :—

(a) The objects of the society shall include the provision, improvement, and management of houses for the working classes.

(b) Every member of the society shall hold at least one share (of the value at the least of £1) in the society, and the board of management of the society shall not refuse to admit to membership of the society any person who has been for three months a tenant of the society.

(c) Tenants [*or if the society so determine tenant members*] may elect annually from among themselves a tenants' [*or tenant members'*] committee, and such committee shall have such rights, powers, and duties (in addition to those which are expressly conferred on or vested in them by the rules of the society), as the board of management of the society, with the concurrence of such committee, may determine. Each tenant [*or tenant member*] shall be entitled to one vote at the election of the members of the said committee.

(d) The management of the business of the society shall be vested in a board of management, of whose members (as from the date of the first annual general meeting of the society after the approval of the scheme) at least one-quarter shall be tenant members appointed by the tenants' [*or tenant members'*] committee.

(e) At all general meetings of the society each fully paid-up share against which there is no set-off in the books of the society shall carry one vote, and not less than five times that amount of loan stock held by a member shall carry one vote :

Provided that the possession of loan stock apart from membership shall not entitle its holder either to a vote or to attendance at meetings of the society :

Provided also that a limitation may be imposed on the number of votes which may be recorded at any meeting by any one member.

(f) Each tenant shall have undisturbed occupancy of his house and garden so long as—

(i) he fulfils the tenancy regulations made by the board of management; and

(ii) he pays any rent or debts due from him to the society; and

(iii) he and the occupants of his house avoid any conduct detrimental to good neighbourhood :

Provided that the tenant shall not be given notice to quit by the board of management on the ground of conduct detrimental to good

neighbourship except with the concurrence of the tenants' [or tenant members'] committee.

(g) Any profits remaining to the society after providing for—

- (i) the annual charges, in respect of interest and repayment of principal, on the loans and loan stock raised by the society ;
- (ii) the taxes, rates, rents, insurance premiums, or other charges payable by the society in respect of any land or houses belonging to them ;
- (iii) the costs of administration and management and of repairs of property ;
- (iv) such allocations to a reserve fund as may be determined by the board of management ;
- (v) any other necessary expenses incurred by the board of management ; and
- (vi) a dividend not exceeding the rate authorised by the statutes in force, on the share capital of the society ;

shall be applied in such manner as may be determined by the board of management, for the benefit of the tenants generally.

9. If before the Exchequer subsidy has ceased to be payable the society has sold all the houses comprised in its scheme, and has commenced to take the necessary steps for dissolution under section 58 of the Industrial and Provident Societies Act, 1893, the Minister may pay to the liquidator on behalf of the society, by way of a final payment of Exchequer subsidy, such sum (not exceeding the capitalised value of the Exchequer subsidy payable to the society) as may be required to pay off any net liabilities of the society :

Provided that nothing contained in this article shall relieve the society from any obligation imposed on them by an undertaking given under Article 9 of the Public Utility (Financial Assistance) Regulations, 1919.

PART III.

Sale of Houses.

10. In this Part of these Regulations the expression " sale of a house " includes the grant of a lease at a yearly rent not exceeding five shillings, and in the case of land in which the society has a leasehold interest only the grant of an underlease at a yearly rent not exceeding by more than five per cent. such portion of the rent payable by the society as is properly attributable to the land comprised in the underlease ; and the words " sell " and " purchase " have corresponding meanings.

11. Before selling any house the society shall obtain the consent of the Minister and shall be satisfied that the proposed purchaser is the occupier or, if the house is unoccupied, the intending occupier of the house.

12.—(1) The conveyance or other instrument transferring the house to the purchaser shall contain covenants on the part of the purchaser in the terms set out in the Second Schedule to these Regulations with such modifications as may be required in the case of a lease or underlease and such other modifications, if any, as the Minister may approve.

(2) The society shall not, without the consent of the Minister, and subject to such conditions, if any, as he may impose, grant any licence with regard to the user of any house which they may be empowered to grant by any of the covenants referred to in the last preceding article.

13. Before selling or contracting to sell any house, the society shall prepare and submit for the approval of the Minister a schedule apportioning among the several houses included in the scheme the total approved cost of the scheme, such apportionment being based on—

- (a) the value of the interest of the society in the site of the house ;
- (b) the amount expended by the society in the erection of the house ; and
- (c) a fair proportion of the general expenditure of the society in connection with the scheme :

Provided that in calculating the expenditure under the foregoing heads no account shall be taken of any expenditure by the society towards which no Exchequer subsidy is being made, and any such expenditure shall be shown separately in the schedule.

14. No house shall be sold at a price less than that approved by the Minister.

15. So much of the purchase money as is equivalent to the minimum price at which the house may be sold shall, unless the Minister otherwise directs, be applied by the society as follows :—

- (a) First, to the repayment of so much of any outstanding loan borrowed from the Commissioners in respect of the house as will reduce the yearly payment to the Commissioners on account of principal and interest on the loan to an amount not exceeding an Exchequer subsidy equivalent, during the period ending on the 31st day of March, 1927, to 50 per cent., and, thereafter, to 40 per cent. or to 30 per cent. of the annual charges (at whichever rate the subsidy payable to the society is for the time being calculated) on the capital raised by the society and approved by the Minister in respect of that house ; and
- (b) Secondly, to the repayment of loans borrowed for the purpose of the scheme otherwise than from the Commissioners, or to the repayment or extinction of any shares or loan stock issued for the purpose of the scheme.

Every sale made by a society under these Regulations shall be made in accordance with rules to be made by the society and approved by the Minister.

16.—(1) Where a house included in a scheme is sold by the society or by the Commissioners as mortgagees of the house, the Minister may pay to the Commissioners or, if the Commissioners are not mortgagees, to any other mortgagee of the house a sum equal to the capitalised value as at the date of the sale of the Exchequer subsidy apportioned in respect of that house or to so much thereof as is required to discharge the liability of the society to the Commissioners or other mortgagee in respect of principal money and interest payable under the mortgage.

(2) A payment made by the Minister to the Commissioners or other mortgagee under this article shall *pro tanto* discharge any liability of the Minister to the society in respect of Exchequer subsidy and of the society to the Commissioners or other mortgagee under the mortgage.

17. Save as provided in the last preceding article nothing in this Part of these Regulations shall extend to the sale of a house by the Commissioners in the exercise of a power of sale as mortgagees of the property, or to the sale of a house by the society to any local authority.

PART IV.

Accounts and Audit.

18.—(1) The society shall keep and make up annually separate accounts relating to the scheme.

(2) Such accounts shall, so long as they relate to capital expenditure incurred for the purpose of the scheme, be audited by a district auditor in like manner, and subject to the same provisions, as the accounts of an urban district council, and during that period the enactments relating to the audit by district auditors of the last-named accounts and to all matters incidental thereto and consequential thereon shall for this purpose apply to the accounts of the society.

(3) So far as may be necessary for the purpose of his duties under this article the district auditor shall have access to all the books, deeds, documents, and accounts of the society.

19. The society shall permit any district auditor or other officer of the Ministry of Health, authorised by the Minister, at all reasonable times during

the period in respect of which the Exchequer subsidy is payable as aforesaid to have access to and inspect the books, deeds, documents, and accounts of the society.

20. A balance sheet and summary of the accounts relating to the scheme for each financial year shall, during the ensuing financial year, be open to inspection by any person at the office of the society on payment of a fee of one shilling and a copy of the balance sheet and summary shall be sent to the Minister at the conclusion of the financial year to which it relates, and also, if they so request, to the local authority.

SCHEDULES.

FIRST SCHEDULE.

REGULATIONS REVOKED.

The Public Utility Societies (Financial Assistance) Regulations, 1919.
 The Public Utility Societies (Financial Assistance) Regulations, 1920.
 The Public Utility Societies (Sale of Houses) Regulations, 1920.
 The Housing (Societies and Trusts) Amendment Regulations, 1921.
 The Public Utility Societies (Financial Assistance) Regulations, 1922.
 The Public Utility Societies Amendment Regulations, 1923.

SECOND SCHEDULE.

FORM OF COVENANTS TO BE INSERTED IN CONVEYANCE.

The Purchaser hereby for himself and his assigns covenants with the Society and their assigns, the owner or owners for the time being of any land comprised in the Scheme under Section 19 (1) of the Housing, Town Planning, etc., Act, 1919, of which the premises hereby conveyed form part—

- (a) that except with the licence in writing of the Society, or, if the Society has dissolved, of the local authority, the premises hereby conveyed shall not at any time hereafter be used for any other purpose than that of a private dwelling house; and
- (b) that the said premises shall not be used for any purpose which shall be or become in any way a nuisance or annoyance to the Society or their assigns or their tenants, or to the owners or tenants of any adjoining property.

The expression "local authority" means the local authority within the meaning of Part III. of the Housing of the Working Classes Act, 1890, for the area in which the premises hereby conveyed are situated.

The Housing (Loans by County Councils) Order, 1925.

Dated 25th July, 1925, made by the Minister of Health under section 94 of the Housing Act, 1925.

S. R. & O., 1925, No. 733.

The Minister of Health, in exercise of the powers conferred on him by section 94 of the Housing Act, 1925, and all other powers enabling him, hereby makes the following Order:—

1. This Order may be cited as the Housing (Loans by County Councils) Order, 1925.

2.—(1) In this Order, unless the context otherwise requires—

"The Minister" means the Minister of Health;

"The Act" means the Housing Act, 1925;

"Housing Loan" means a loan raised by a county council for the purpose mentioned in section 94 of the Act, or, where a loan is raised partly for that purpose and partly for other purposes, such portion of the loan as is declared by the Minister to have been raised for the purpose of the said section 94.

(2) The Interpretation Act, 1889, shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

3. The Housing (Loans by County Councils) Order, 1920, is hereby revoked, but without prejudice to any right, privilege, obligation or liability acquired, accrued, or incurred under that Order.

4. Where the proceeds of a Housing Loan have been lent to local authorities, the county council shall discharge or provide for repayment of such part of the loan as represents the money lent to each local authority within a term ending not later than one year after the date at which that local authority is required to pay off the money lent to it.

5. Money lent to a local authority shall be repayable by it to the county council by equal half-yearly instalments of principal and interest combined within the period for which the local authority has power to borrow :

Provided that where the money lent to a local authority has been raised by the issue of stock, the local authority shall repay to the county council not less than six months before the expiration of the maximum period of the currency of the stock any outstanding balance of the amount borrowed from the county council.

6. All sums received by the county council from a local authority representing repayment of principal shall be applied in or towards discharge of the Housing Loan, or where the Housing Loan was raised by the issue of stock, in or towards redemption of such stock.

7. All sums which under the last preceding Article are required to be applied in or towards redemption of stock shall be transferred to the fund or account to which, under the provisions of the Acts or Regulations for the time being governing the issue and redemption of stock by the county council, sums required to be applied in redemption of stock are to be paid, and notwithstanding anything in those provisions the county council shall not be under any obligation to transfer to that fund or account in any year any greater sum than the aggregate of the sums received during that year and required by this Article to be so transferred.

8. The rate of interest at which money may be lent by the county council to a local authority shall be subject to the approval of the Minister and shall be calculated so as to cover the interest payable by the council in respect of such money together with all expenses incurred by the council in raising the same, and all expenses incurred or to be incurred by them in connection with the management or redemption of any stock or local bonds by means of which the money was raised, including any loss incurred by the council by reason of the rate of interest received in respect of any portion of the proceeds of the Housing Loan and not immediately required for loans to local authorities or in respect of any investments of moneys standing to the credit of any fund or account for the redemption of the Housing Loan falling short of the rate at which interest is payable by the council upon the Housing Loan :

Provided that where the Housing Loan was raised by the issue of stock, the rate of interest payable by the local authority may, with the consent of the Minister, be the same as that payable by the county council on such stock, but in that event the mortgage to be entered into by the local authority shall, in addition to securing the repayment of principal and interest as provided in Article 4 of this Order, include the provisions specified in the Schedule to this Order.

9. This Order shall not apply to the London County Council.

SCHEDULE.

The following provisions shall apply to every mortgage made between a county council and a local authority for securing repayment of a loan where the rate of interest charged is the same as that payable on the stock issued by the county council, and the mortgage shall include such covenants and conditions as may be necessary to give effect to such provisions.

(a) The local authority shall pay to the county council by means of an annuity of an amount to be specified in the mortgage payable half-yearly during a period to be similarly specified not exceeding the maximum period of currency of the stock, a sum equal to the amount, if any, by which the nominal amount of that part of the stock of which the proceeds were applied in making the loan to the local

authority exceeded the net proceeds of such nominal amount of stock with interest on that sum at the rate payable under the mortgage in respect of the principal money secured thereby. In ascertaining net proceeds for the purpose of this paragraph a proportionate part of the expenses of the issue of the stock and of any unaccrued interest payable under the terms of issue at the date of the first payment of interest shall be deducted from the proceeds.

(b) The local authority shall pay annually to the county council on a date to be specified in the mortgage a proportionate part of the expenses incurred by the council during the previous year in connection with the management of the stock, including any composition for stamp duties and any remuneration payable to the Registrar of the said stock and other establishment charges in connection therewith.

(c) At a date within one year from the commencement of the loan to be specified in the mortgage and thereafter at the end of each year from that date during the continuance of the loan and until the redemption of the stock, the amount, if any, by which the total interest paid by all the local authorities (i) in respect of loans made to them out of the proceeds of the Housing Loan, and (ii) under paragraph (a) of this Schedule, together with any interest received by the county council either upon any portion of the proceeds of the Housing Loan which has not for the time being been lent to any local authority, or upon moneys representing principal previously repaid by any such local authority and forming part of the council's redemption fund account relating to the Housing Loan, exceeds or falls short of the amount required to pay interest on the Housing Loan shall be ascertained, and in the case of any excess a proportionate part thereof shall be set off against any sum payable by the local authority under paragraphs (a), (b), or (d), of this Schedule, and in the case of any deficiency a proportionate part thereof shall be paid by the local authority to the county council.

(d)—(i) If upon the realisation of any investments standing to the credit of the county council's redemption fund account relating to the Housing Loan the net proceeds of the sale of such investments represent a profit or loss to the council, a proportionate part of the amount of such profit or loss shall in the case of a profit be set off against the sums payable by the local authority to the county council, and in the case of a loss be paid by the local authority to the county council.

(ii) If the county council redeem or purchase and extinguish stock at less than its nominal value by the application of any part of the money carried to the said redemption fund account, the difference between the price at which the stock is so redeemed or purchased and its nominal value shall be treated for the purposes of this Article as a profit made on the realisation of an investment.

(iii) The necessary adjustments between the county council and the local authority for the purpose of this paragraph shall be made annually upon a date to be specified in the mortgage.

(e) Upon the redemption by the county council of any stock issued for the purposes of the Housing Loan the local authority shall repay to the council a proportionate part of any expenses incurred by the council in connection with such redemption.

(f) All powers and remedies of the county council for securing and recovering payment of the principal and interest payable under the mortgage shall be exercisable in respect of any payment to be made by the local authority to the council under the foregoing provisions of this Schedule.

(g) For the purposes of this Schedule a proportionate part of any expenses, profit, loss, or other amount shall mean as regards any local authority a part of such expenses, profit, loss, or other amount bearing the same proportion to the whole as the nominal amount of stock represented by the moneys lent to that local authority bears to the total nominal amount of the stock representing the amount lent to local authorities issued for the purpose of Housing.

The Housing Consolidated Regulations, 1925

Dated 1st September, 1925, made by the Minister of Health under the Housing Act, 1925.

S. R. & O., 1925, No. 866.

Note

These regulations are amended by further Regulations of 1932, S. R. & O., No. 648, p. 490, *post*.

The Minister of Health, in pursuance of the powers conferred on him by the Housing Act, 1925, and of all other powers enabling him in that behalf,

subject to the approval of the Treasury, so far as regards Regulations with respect to which such approval is required, hereby makes the following Regulations :—

PART I.—GENERAL.

1. These Regulations may be cited as the Housing Consolidated Regulations, 1925, and shall come into operation on the 1st day of September, 1925.

2.—(1) In these Regulations, unless the context otherwise requires—

“The Minister” means the Minister of Health;

“The Act” means the Housing Act, 1925.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

3. The Orders and Regulations set out in the Third Schedule hereto are hereby revoked, but without prejudice to any right, privilege, obligation, or liability acquired, accrued or incurred under any of these Regulations.

PART II.—PROVISIONS AS TO COMPULSORY PURCHASE.

Note

Part II is revoked by the Amendment Regulations of 1932, S. R. & O., No. 648, p. 490, *post*.

PART III.—PROVISIONS AS TO LOCAL BONDS.

9. In this Part of these Regulations, unless the context otherwise requires, the expression “holder” means registered holder.

Issue of Local Bonds.

10.—(1) Local bonds shall be issued at par and interest thereon shall be payable half-yearly on the thirty-first day of March and the thirtieth day of September in each year: Provided that in the case of any person who holds on the thirtieth day of September bonds to a nominal value not exceeding £50, the local authority may pay interest yearly on the thirty-first day of March, paying in addition interest at the rate applicable to the bonds on any interest which has accrued in respect of the period up to the thirtieth day of September.

(2) Applications for local bonds shall be for amounts of five, ten, twenty, fifty, or one hundred pounds or multiples of one hundred pounds.

(3) Local bonds shall, subject to the provisions of this Article, be repayable at par at the office of the local authority not less than five years after the date of issue according to the terms of issue, and no interest shall be payable thereon in respect of any period after the date upon which the bond is repayable.

(4) Where a local authority accepts a local bond issued by another local authority in payment or part payment of the purchase price of a house erected in pursuance of any scheme under the Act, the local authority by whom the bond was issued shall, if so requested by the other local authority, redeem the bond by paying the nominal amount thereof to that local authority.

(5) The first payment of interest on any local bond shall be adjusted in accordance with the date of issue of the bond and any sum paid by way of repayment or redemption shall include interest accrued to the date of repayment or redemption.

(6) Nothing in this Article shall be construed as prohibiting a local authority from redeeming a local bond at any time by agreement with the holder of the bond, if they shall think fit to do so.

(7) A local bond repaid or redeemed by a local authority shall be cancelled.

Registration and Certificates.

11. A local authority issuing local bonds shall appoint a registrar for the purposes of this part of these Regulations, and may direct him to act on their

behalf for the purposes of all or any of the things which they are authorised to do under this part of these Regulations.

12.—(1) The local authority shall keep a register (hereinafter called the “Local Bonds Register”) of all persons who are holders for the time being of local bonds.

(2) The Local Bonds Register shall contain the following particulars :—

(a) the name, address, and description of each holder, a statement of the denomination of the bonds held by him and the periods for which they are issued and the numbers and dates of the certificates issued to him as hereinafter provided ;

(b) the date of registration of each holder and the date on which he ceased to be so registered.

(3) The Local Bonds Register shall be *primâ facie* evidence of any matter entered therein in accordance with these Regulations and of the title of the persons entered therein as holders of local bonds.

13.—(1) The local authority shall issue to each holder of a local bond a certificate in respect thereof, duly numbered and dated, and specifying the denomination of the bond and the period for which it is issued.

(2) The certificate shall be *primâ facie* evidence of the title of the person therein named, his executors, administrators or assigns, to the bond therein specified, but the want of a certificate, if accounted for to the satisfaction of the local authority, shall not prevent the holder of a bond from disposing of and transferring the bond.

(3) If a certificate is worn out or damaged, the local authority, on the production thereof, may cancel it and issue a new certificate in lieu thereof.

(4) If a certificate is lost or destroyed, the local authority on proof thereof to their satisfaction, and, if they so require, on receiving an indemnity against any claims in respect thereof, may give a new certificate in lieu of the certificate lost or destroyed.

(5) An entry of the issue of a substituted certificate shall be made in the Local Bonds Register.

(6) A certificate shall be in the form set out in the Second Schedule hereto or in a form substantially to the like effect.

Transfer of Local Bonds.

14.—(1) The transfer of a local bond shall be by deed, in the form set out in the Second Schedule hereto or in a form substantially to the like effect.

(2) A local bond may be transferred in whole or in part, so, however, that any part transferred shall not be for an amount other than an amount for which a local bond may be issued by a local authority.

(3) Unless the local authority have compounded for stamp duty, every deed of transfer shall be duly stamped and the consideration shall be truly stated therein.

(4) The deed of transfer shall be delivered to and retained by the local authority and the local authority shall enter a note thereof in a book to be called the “Register of Transfer of Local Bonds,” and shall endorse on the deed of transfer a notice of that entry.

(5) The local authority shall, upon receipt of the deed of transfer duly executed together with the certificate issued in respect of the bond, enter the name of the transferee in the Local Bonds Register and shall issue a new certificate or certificates to the transferee, or to the transferor and transferee, as the case may require.

(6) Until the deed of transfer and the certificate have been delivered to the local authority as aforesaid, the local authority shall not be affected by the transfer, and the transferee shall not be entitled to receive any payment of interest on the bond.

(7) The local authority before registering a transfer of a local bond may, if they think fit, require evidence by statutory declaration or otherwise of the title of any person claiming to make the transfer.

Closing of Local Bonds Register.

15. The local authority may close the Local Bonds Register for a period not exceeding thirty days immediately before the thirty-first day of March and the thirtieth day of September in any year respectively, and notwithstanding the receipt by the local authority during those periods of any deed of transfer, the half-yearly payment of interest next falling due may be made to the persons registered as holders of local bonds on the date of the closing of the register.

Transmission of Local Bonds.

16.—(1) Any person becoming entitled to a local bond by reason of the death or bankruptcy of a holder or by any lawful means other than a transfer may, by the production of such evidence of title as the local authority may require, either be registered as holder of the bond, or, instead of being himself registered, may make such transfer of the bond as the holder could have made, and the local authority shall issue a certificate accordingly.

(2) Until such evidence as aforesaid has been furnished to the local authority, the local authority shall not be affected by the transmission of the bond and no person claiming by virtue thereof shall be entitled to receive any payment of interest thereon.

(3) Where two or more persons are registered as holders of a local bond they shall be deemed to be joint holders with right of survivorship between them.

Interest on Local Bonds.

17.—(1) Unless the holder of a local bond otherwise requests, the local authority may pay the interest thereon by posting a warrant to the holder at his address as shown in the Local Bonds Register.

(2) The posting by the local authority of a letter containing an interest warrant addressed to a holder as aforesaid shall, as respects the liability of the local authority, be equivalent to the delivery of the warrant to the holder himself.

18. The local authority shall not be required to pay any executors or administrators any interest on local bonds held by their testator or intestate until the probate of the Will or the letters of administration has or have been left with the local authority for registration.

19. The local authority before paying any interest on any local bonds may, if they think fit, require evidence by statutory declaration or otherwise of the title of any person claiming a right to receive the interest.

20. Where more persons than one are registered as joint holders of a local bond, any one of them may give an effectual receipt for any interest thereon, unless notice to the contrary has been given to the local authority by any other of them.

General.

21. No notice of any trust shall be entered in the Local Bonds Register or in any other book kept by the local authority or be receivable by the local authority.

22.—(1) If at any time any interest due on any local bonds remains unpaid for two months after demand in writing, the persons entitled thereto may apply to the High Court for a receiver and the Court may, if it thinks fit, appoint a receiver on such terms as it thinks fit.

(2) The receiver shall have the like power of collecting, receiving, recovering and applying moneys, and of assessing, making, and recovering all rates for the purpose of obtaining the same, as the local authority or any officer thereof would or might have, and such other powers and duties as the Court thinks fit, and shall apply all moneys so collected and received, after paying all such costs as the Court may direct, for the purposes of these Regulations.

23. A person taking or holding local bonds shall not be concerned to inquire or to take notice whether the issue thereof was or was not in accordance with these Regulations, or whether or not the local authority or any meeting

thereof was properly constituted or convened, or whether or not the proceedings at a meeting of the local authority were legal or regular, or to see to the application of any money raised by the issue of local bonds or be answerable for any loss or misapplication thereof.

24. If at any time any interest on any local bonds is unclaimed at the time for payment thereof, the amount shall, nevertheless, on demand at any subsequent time, be paid to the person showing his right thereto, but without interest in the meantime.

25. Where the local authority sell, lease, or otherwise dispose of any land or property charged as security for any local bonds, the land or property shall in the hands of the purchaser or lessee be absolutely free from any charge for that purpose, and he shall not be bound to inquire into the application of the money arising from such sale, lease, or disposal, or be in any way responsible for the misapplication or non-application thereof.

26. A local authority may pay such expenses in connection with the issue of local bonds (including commission) as the Minister may approve.

PART IV.—INSPECTION OF DISTRICT.

27.—(1) The local authority shall take into consideration the provisions of section 8 of the Act, and shall determine the procedure to be adopted under this Part of these Regulations, to give effect to the requirements of that section in regard to the inspection of their district from time to time.

(2) The local authority shall as part of their procedure make provision for a thorough inspection to be carried out from time to time according to the varying needs or circumstances of the dwelling-houses or localities in the district of the local authority.

(3) The local authority shall cause to be prepared from time to time by the medical officer of health, or by an officer designated by them but acting under his direction and supervision, a list or lists of dwelling-houses the early inspection of which is, in the opinion of the medical officer of health, desirable. The list or lists may, if thought fit, relate to the dwelling-houses within a defined area of the district without specifying each house separately therein.

28.—[The inspection under and for the purposes of section 8 of the Act shall be made by the Medical Officer of Health, or by an Officer designated by the Local Authority but acting under his direction and supervision and the Officer making inspection of any house shall examine the state of the house in relation to the following matters, namely :—

- (1) The adequacy and accessibility of the water supply ;
- (2) The arrangements for preventing the contamination of the water supply ;
- (3) The adequacy and accessibility of sanitary accommodation or of other conveniences ;
- (4) Drainage ;
- (5) The condition of the house in regard to light, the free circulation of air, dampness and cleanliness ;
- (6) The paving, drainage and sanitary condition of any court yard or passage or outhouses belonging to or occupied with the house ;
- (7) The arrangements for the deposit of refuse and ashes ;
- (8) The existence of any room which would by virtue of sub-section (1) of section 18 of the Act of 1925 be unfit for human habitation ;
- (9) Any defects in other matters which may tend to render the house in any respect unfit for human habitation ;
- (10) The extent to which by reason of disrepair or sanitary defects as defined in section 62 of the Housing Act, 1930, the house falls short of the provisions of any byelaws in operation in the district or

of the general standard of housing accommodation for the working classes in the district.]

Note

These provisions are substituted for the original article by article 3 of the Amendment Regulations of 1932, p. 490, *post*.

29. Records of the inspection of houses made under and for the purposes of section 8 of the Act shall be prepared under the direction and supervision of the medical officer of health, and shall be kept by the officer of the local authority making the inspection or by some other officer appointed or employed for the purpose by the local authority.

The records may be kept in a book or books or on separate sheets or cards, and shall contain information, under appropriate headings, as to :—

- (1) The situation of the house, and its name or number.
- (2) The name of the officer who made the inspection.
- (3) The date when the house was inspected.
- (4) The date of the last previous inspection and a reference to the record thereof.
- (5) The state of the house in regard to each of the matters referred to in Article 28 of these Regulations.
- (6) Any action taken by the medical officer of health, or other officer of the local authority, either independently or on the directions of the local authority.
- (7) The result of any action so taken.
- (8) Any further action which should be taken in respect of the house.

30. The local authority shall, as far as may be necessary, take into consideration at each of their ordinary meetings the records kept in pursuance of Article 29 of these Regulations, and shall give all such directions and take all such action within their powers as may be necessary or desirable in regard to any house to which the records relate, and a note of any directions so given and the result of any action taken shall be added to the records.

31.—[The Medical Officer in his Annual Report shall state in tabular form :—

- (1) The number of houses which on inspection were considered to be unfit for human habitation ;
- (2) The number of houses the defects in which were remedied in consequence of informal action by the Local Authority or their Officers ;
- (3) The number of representations made to the Local Authority with a view to (a) the serving of notices requiring the execution of works or (b) the making of demolition or closing orders ;
- (4) The number of notices served requiring the execution of works ;
- (5) The number of houses which were rendered fit after service of formal notices ;
- (6) The number of demolition or closing orders made ;
- (7) The number of houses in respect of which an undertaking was accepted under subsection (2) of section 19 of the Housing Act, 1930 ;
- (8) The number of houses demolished.]

Note

These provisions are substituted for the original article by article 4 of the Amendment Regulations of 1932, p. 490, *post*.

32. The medical officer of health and any other officer of the local authority shall observe and execute all lawful orders and directions of the local authority

in regard to or incidental to the inspection of the district of the local authority under and for the purposes of section 8 of the Act, and the execution of this Part of these Regulations.

PART V.—RATES OF INTEREST.

33. The rate of interest on expenses incurred by a local authority under section 3 of the Act, shall be the rate of five per cent. per annum :

Provided that nothing in this Article shall affect the rate of interest on any expenses incurred by a local authority before the date of these Regulations.

PART VI.—RESTRICTIONS ON ACQUISITION OF CERTAIN LANDS.

34. The prescribed distance for the purposes of sub-section (1) of section 104 of the Act shall, in the case of Windsor Castle, Windsor Great Park, and Windsor Home Park, be two miles, and, in the case of any other Royal Palace or Park, be half a mile.

SCHEDULES.

FIRST SCHEDULE.

Note

Revoked by the Amendment Regulations of 1932, p. 490, *post*.

SECOND SCHEDULE.

FORM OF CERTIFICATE OF REGISTRATION.

Certificate of Registration of a Local Bond.

Local Bond for £	issued by	No. REPAYABLE
, 19 ,	at the office of the local authority	(see back).

THIS is to certify that of is the registered holder of a local bond for pounds (£) issued by the above-named local authority under the Housing Act, 1925, and Part III. of the Housing Regulations, 1925.

Signed Registrar.

Date

No deed transferring the whole or any part of the Registered Bonds represented by this certificate will be registered until the certificate has been delivered to the registrar of the authority.

Change of address must be notified to the registrar.

Issue of Local Bonds.

1. Local bonds are issued at par and interest will be payable half-yearly on the thirty-first day of March and the thirtieth day of September. The bonds will bear interest from the date of purchase. * When the total holding does not exceed £50 interest will be paid yearly on the thirty-first day of March.

2. Local bonds are issued for amounts of five, ten, twenty, fifty, or one hundred pounds or multiples of one hundred pounds.

3. Local bonds are issued for periods of five or more years and are repayable at par at the office of the local authority at the end of the period of issue. No interest will be payable thereon in respect of any period after the date on which the bond is repayable.

4. Local bonds are secured upon all the rates, revenues, and property of the local authority, including the grant to be paid by the Government in aid of the Housing Scheme.

5. Trustees may invest in local bonds unless expressly forbidden by the instrument creating the Trust.

6. Local bonds may be transferred (free of expense †) from one person to another by the execution of a transfer deed to be lodged with the bond certificate at the office of the local authority.

7. If at any time the holder of a local bond purchases a house erected by a local authority under the Housing Acts, the bond will be accepted at face value, together with accrued interest, in part payment of the purchase price.

8. No income tax will be deducted at the source from the interest on the bonds when the total holding does not exceed £100, but the holders will be assessable to income tax in the ordinary way to the extent of their liability.

* To be omitted if the local authority does not adopt this provision.

† To be omitted if the local authority have not compounded for stamp duty.

FORM OF DEED OF TRANSFER.

Registered Local Bonds.

I, _____ in consideration of the sum of _____ paid by _____ hereinafter called the Transferee do hereby assign and transfer to the said Transferee :—
To hold unto the Transferee, _____ Executors, Administrators, and Assigns
subject to the several conditions on which _____ held the same immediately before the execution hereof ; and the said Transferee do hereby agree to accept and take the said _____ subject to the conditions aforesaid.

As Witness our Hands and Seals, this _____ day of _____ in the Year of our Lord One thousand nine hundred and _____

THIRD SCHEDULE.

REGULATIONS AND ORDERS REVOKED

Date of Regulations or Order.	Subject or Short Title.	Extent of Repeal.
2nd September, 1910	The Housing (Inspection of District) Regulations, 1910.	The whole Regulations.
2nd September, 1910	Prescribing distance under section 74 of the Housing, Town Planning, etc., Act, 1909.	The whole Regulations.
29th August, 1919 .	The Housing Acts (Compulsory Purchase) Regulations, 1919.	The whole Regulations.
6th February, 1920	The Housing Acts (Compulsory Purchase) Amendment Regulations, 1920.	The whole Regulations.
25th February, 1920	The Housing (Local Bonds) Regulations, 1920.	The whole Regulations.
26th August, 1921 .	The Ministry of Health (Rates of Interest) Order, 1921.	The whole of these Orders, except so far as they fix the rate of interest on advances under section 1 of the Small Dwellings Acquisition Act, 1899.
17th June, 1922 .	The Ministry of Health (Rates of Interest) Amendment Order, 1922.	
5th December, 1922	The Ministry of Health (Rates of Interest) Amendment Order (No. 2), 1922.	

The Housing Acts (Revision of Contributions) Order, 1928.

Dated 19th December, 1928, made by the Minister of Health and the Scottish Board of Health with the approval of the Treasury under section 5 of the Housing (Financial Provisions) Act, 1924 (14 & 15 Geo. 5, c. 35) (a).

S. R. & O., 1928, No. 1039.

Note.

(a) This Order is here set out as amended by the Housing (Revision of Contributions) Act, 1929.

Whereas it is provided by section 5 of the Housing (Financial Provisions) Act, 1924 (hereinafter referred to as "the Act of 1924"), that in the year 1926, and in each second succeeding year, after the first day of October in that year, the Minister of Health (hereinafter referred to as "the Minister") and the Scottish Board of Health (hereinafter referred to as "the Board") shall take into consideration the expenses which are likely to be incurred in the period of two years from that date in connection with the provision of houses in respect of which contributions would be payable by the Minister or Board, due regard being had to the expenses actually incurred during the period of two years ending on that date for the like purposes, and after consultation with such bodies as are therein mentioned, may, if they think it expedient so to do, jointly make an order altering the amount of the contributions payable or the period for which such contributions are to be payable, so far as respects houses which have not been completed before the date specified in the Order, but so, nevertheless, that the amounts and periods fixed by the Order shall be such as may be approved by the Treasury and shall not exceed the respective amounts and periods specified in the said section unless Parliament otherwise determines;

And whereas it is further provided that an Order made under that section shall make such consequential alterations of any sums or periods mentioned in the financial provisions of the Housing, etc., Act, 1923 (hereinafter referred to as "the Act of 1923"), or in the Act of 1924, including the sum of four pounds ten shillings mentioned in sub-section (1) of section 3 of the Act of 1924 as appear to the Minister and Board to be necessary for the purpose of adjusting the same to any alteration made by the Order in the amount or duration of the contributions;

And whereas by the Housing Acts (Revision of Contributions) Order, 1926 (hereinafter referred to as "the Order of 1926"), made by the Minister of Health and the Scottish Board of Health with the approval of the Treasury under section 5 of the Act of 1924, which Order did not apply to Scotland, it was provided, so far as respects houses which had not been completed before the 1st day of October, 1927, that the contributions provided by the Minister of Health under sections 1 and 3 of the Act of 1923, as amended by section 1 of the Act of 1924, or under section 2 of the Act of 1924 in the case of houses which are subject to special conditions, should in lieu of the contributions specified in the Act of 1923 and the Act of 1924 be the contributions specified in the Order of 1926; and by the Order of 1926 consequential alterations were made of the sums mentioned in the financial provisions of the Act of 1923 and the Act of 1924 for the purpose of adjusting the same to the alterations made by the Order of 1926 in the amount of the contributions;

And whereas the Minister and the Board having subsequently to the 1st day of October, 1928, taken into consideration the matters referred to in section 5 of the Act of 1924, and having consulted with such bodies as aforesaid, think it expedient to make the following Order:

The Minister and the Board, with the approval of the Treasury under the powers conferred on them by section 5 of the Act of 1924, and of all other powers enabling them in that behalf, hereby make the following Order:—

1. This Order may be cited as the Housing Acts (Revision of Contributions) Order, 1928.

2. The Order of 1926 is hereby revoked so far as respects houses in England and Wales which have not been completed before the 1st day of October, 1929.

3.—(1) So far as respects houses in England and Wales which have not been completed before the 1st day of October, 1929, no contribution shall be made by the Minister under sections 1 and 3 of the Act of 1923, as amended by section 1 of the Act of 1924.

(2) So far as respects houses in Scotland which have not been completed before the said 1st day of October, 1929, the contribution provided by the Board under sections 1 and 3 of the Act of 1923 as amended by section 1 of the Act of 1924 shall instead of being a contribution of £6 payable annually for a period of 20 years be a contribution of £4 payable annually for a period of 20 years and the Acts of 1923 and 1924 shall have effect accordingly.

SCHEDULE.

PART I.

PROVISIONS TO BE SUBSTITUTED FOR THE PROVISIONS SET OUT IN PART II. OF THIS SCHEDULE.

4. So far as respects houses in England and Wales which have not been completed before the first day of October, nineteen hundred and twenty-nine, the contributions provided by the Minister under section two of the Act of 1924 in the case of houses which are subject to special conditions shall be the same as in the case of houses completed between the thirtieth day of September, nineteen hundred and twenty-seven, and the first day of October, nineteen hundred and twenty-nine, that is to say, a contribution of seven pounds ten shillings, or, if the house is situated in an agricultural parish, eleven pounds, payable annually for a period of forty years.

5. In regard to houses in respect of which the contribution fixed by the last preceding Article is payable :—

- (a) For the purpose of determining whether proposals submitted to the Minister involve a reduction in the estimated annual expenses to be incurred so as to entitle the Minister to reduce the contribution, there shall be substituted for the sum of four pounds ten shillings mentioned in the second proviso to sub-section (1) of section two of the Act of 1924 the sum of three pounds fifteen shillings.
- (b) For the purpose of the determination of the rents of houses in respect of which the contribution is payable, there shall be substituted for the sum of four pounds ten shillings mentioned in sub-section (1) of section three of the Act of 1924 the sum of three pounds fifteen shillings.
- (c) In the application of the special conditions to which the houses are to be subject, there shall be substituted for the sum of three pounds mentioned in paragraph (c) of sub-section (1) and paragraph (c) of sub-section (2) of section three of the Act of 1924 the sum of three pounds ten shillings, and for the sum of six pounds ten shillings mentioned in the last-mentioned paragraphs the sum of seven pounds (a).

6.—(1) So far as relates to houses in respect of which the contribution fixed by Article 4 of this Order is payable, there shall be substituted as the sum by which the London County Council may supplement the contribution made by the Minister in sub-section (5) of section two of the Act of 1924, for the words "not exceeding two pounds five shillings" the words "not exceeding one pound seventeen shillings and sixpence."

Given under the official seal of the Minister of Health this nineteenth day of December, in the year one thousand nine hundred and twenty-eight.

(L.S.)

E. TUDOR OWEN,
Assistant Secretary, Ministry of Health.

Given under the official seal of the Scottish Board of Health this nineteenth day of December, in the year one thousand nine hundred and twenty-eight.

(L.S.)

JOHN JEFFERY,
Secretary, Scottish Board of Health.

We approve this Order.

DAVID MARGESSON,
CURZON,
*Two of the Lords Commissioners of
His Majesty's Treasury.*

(a) This paragraph ceased to have effect by virtue of s. 44 (2) of the Housing Act, 1930.

The Housing Consolidated Amendment Regulations, 1932.

Dated August 11, 1932, made by the Minister of Health under the Housing Acts, 1925 and 1930 (15 & 16 Geo. 5, c. 14, and 20 & 21 Geo. 5, c. 39).

S. R. & O., 1932, No. 648.

Whereas by Part II of the Housing Consolidated Regulations, 1925, (hereinafter referred to as "the principal Regulations"), made by the Minister of Health under the Housing Act, 1925, provision is made in regard to the procedure for the compulsory purchase by a local authority of land for the purposes of Part III of the Housing Act, 1925, and by Part IV of the principal regulations provision is made in regard to the inspection by a local authority of their district :

And whereas in consequence of the passing of the Housing Act, 1930, it is expedient to amend the principal regulations :

Now therefore the Minister of Health in pursuance of the powers conferred on him by the Housing Acts, 1925 and 1930, and of all other powers enabling him in that behalf hereby makes the following Regulations :—

1. These Regulations may be cited as the Housing Consolidated Amendment Regulations, 1932, and shall be read as one with the principal Regulations and these Regulations and the principal Regulations may be cited together as the Housing Consolidated Regulations, 1925 and 1932.

2. The provisions contained in Part II of the principal Regulations and the form set out in the First Schedule thereto are hereby revoked.

3. The following provisions shall be substituted for the provisions contained in Article 28 in Part IV of the principal Regulations :—

" 28. The inspection under and for the purposes of Section 8 of the Act shall be made by the Medical Officer of Health, or by an Officer designated by the Local Authority but acting under his direction and supervision and the Officer making inspection of any house shall examine the state of the house in relation to the following matters, namely :—

- (1) The adequacy and accessibility of the water supply ;
- (2) The arrangements for preventing the contamination of the water supply ;
- (3) The adequacy and accessibility of sanitary accommodation or of other conveniences ;
- (4) Drainage ;
- (5) The condition of the house in regard to light, the free circulation of air, dampness and cleanliness ;
- (6) The paving, drainage and sanitary condition of any court yard or passage or outhouses belonging to or occupied with the house ;
- (7) The arrangements for the deposit of refuse and ashes ;
- (8) The existence of any room which would by virtue of subsection (1) of section 18 of the Act of 1925 be unfit for human habitation ;
- (9) Any defects in other matters which may tend to render the house in any respect unfit for human habitation ;
- (10) The extent to which by reason of disrepair or sanitary defects as defined in section 62 of the Housing Act, 1930, the house falls short of the provisions of any byelaws in operation in the district or of the general standard of housing accommodation for the working classes in the district."

4. The following provisions shall be substituted for the provisions contained in Article 31 in Part IV of the principal Regulations :—

“ 31. The Medical Officer in his Annual Report shall state in tabular form :—

- (1) The number of houses which on inspection were considered to be unfit for human habitation ;
- (2) The number of houses the defects in which were remedied in consequence of informal action by the Local Authority or their Officers ;
- (3) The number of representations made to the Local Authority with a view to (a) the serving of notices requiring the execution of works or (b) the making of demolition or closing orders ;
- (4) The number of notices served requiring the execution of works ;
- (5) The number of houses which were rendered fit after service of formal notices ;
- (6) The number of demolition or closing orders made ;
- (7) The number of houses in respect of which an undertaking was accepted under subsection (2) of section 19 of the Housing Act, 1930 ;
- (8) The number of houses demolished.”

Given under the official seal of the Minister of Health, this eleventh day of August nineteen hundred and thirty-two.

(L.S.)

R. B. Cross,
Assistant Secretary, Ministry of Health.

**The Ministry of Health (Central Housing Advisory Committee)
Order, 1935, made by the Minister of Health.**

Dated 12 November, 1935.

S. R. & O., 1935, No. III5.

83532.

Whereas by section twenty-four of the Housing Act, 1935, it is enacted as follows :

“ (1) The Minister shall appoint a committee, to be called the Central Housing Advisory Committee, for the purpose of—

- (a) advising the Minister on any matter, relating to a temporary increase of the permitted number of persons in relation to overcrowding, as respects which he is required by section four of this Act to consult the Committee ;
 - (b) advising Housing Management Commissions constituted under the next succeeding section on any matter as respects which such Commissions are required to consult the Committee ;
 - (c) advising the Minister on any question which may be referred by him to the Committee with respect to any other matter arising in connection with the execution of the enactments relating to housing ;
 - (d) considering the operation of the enactments relating to housing and making to the Minister such representations with respect to matters of general concern arising in connection with the execution of those enactments as the Committee think desirable.
- (2) The Minister may by order make provision with respect to the constitution and procedure of the Committee, and any such order may be varied by a subsequent order.”

Now therefore the Minister of Health in exercise of the powers conferred upon him by the said section twenty-four and of all other powers enabling him in that behalf hereby orders as follows :—

1.—(i) This Order may be cited as the Ministry of Health (Central Housing Advisory Committee) Order, 1935.

(ii) In this Order the following expressions have the meanings hereby assigned to them :—

“ The Minister ” means the Minister of Health.

“ The Committee ” means the Central Housing Advisory Committee to be appointed under section twenty-four of the Housing Act, 1935.

(iii) The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

2. The Committee shall consist of such number of members not exceeding thirty appointed by the Minister as the Minister may determine.

3.—(i) *At the expiration of one, two and three years respectively from the first appointment of the members of the Committee one-third of the original members, to be selected by lot, shall go out of office, but for the purpose of this provision an original member who has been re-appointed shall not be deemed to be an original member.*

(ii) *Subject as aforesaid the members of the Committee shall hold office for three years and shall then go out of office :*

Provided that on a casual vacancy occurring in the Committee the person appointed to fill the vacancy shall hold office until the time when the person in whose place he is appointed would regularly go out of office, and shall then go out of office :

(iii) *A member of the Committee on the expiration of his term of office may be re-appointed.*

Note.

This para. was revoked and replaced by S. R. & O.; 1945, No. 1240 ; see p. 556, *post*.

4. The Minister shall be the Chairman and the Parliamentary Secretary to the Ministry of Health shall be the Vice Chairman of the Committee.

5. The Chairman or, in his absence, the Vice Chairman or in the absence of both the Chairman and the Vice Chairman such member of the Committee as the Minister may appoint for the purpose shall preside at every meeting of the Committee.

6.—(i) The Committee shall meet at such times and notice of meetings shall be given to the members of the Committee in such manner as the Committee may with the approval of the Minister determine :

(ii) At a meeting of the Committee five shall be a quorum.

(iii) No act or proceeding of the Committee shall be questioned on account of any vacancy in their body.

7. Subject to the provisions contained in this Order the Committee may regulate their own procedure.

Given under the official seal of the Minister of Health this twelfth day of November, nineteen hundred and thirty-five.

The Sanitary Officers (Outside London) Regulations, 1935.

Dated 17 September, 1935.

S. R. & O., 1935, No. 1110.

80146.

The Minister of Health in pursuance of his powers under sections 103 and 108 of the Local Government Act, 1933, section 11 of the Housing Act, 1935, and all other powers enabling him in that behalf hereby makes the following Regulations, that is to say :—

PART I.

Interpretation, etc.

1. Short title.—These Regulations may be cited as the Sanitary Officers (Outside London) Regulations, 1935, and shall come into force on the 1st day of January, 1936.

2. Interpretation.—(1) In these Regulations, unless the context otherwise requires—

“the Minister” means the Minister of Health;

“local authority” means—

(a) in the case of a borough, urban district or rural district the council thereof;

(b) in the case of a port sanitary district constituted under the Public Health Act, 1875, as amended by the Public Health (Ships, etc.) Act, 1885, the port sanitary authority;

“district” means a borough, urban district, rural district, or a port sanitary district, and also a union of districts for the appointment of a medical officer of health and includes a part of a district.

(2) The Interpretation Act, 1889, applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

3. Repeal of existing Order.—The Sanitary Officers Order, 1926, (except in so far as it applies to London) is hereby revoked, but without prejudice to any right, privilege, obligation or liability acquired, accrued or incurred thereunder.

4. Application of Regulations.—Nothing in these Regulations shall apply to London.

PART II.

Medical Officers of Health of Counties.

5. Application.—This Part of these Regulations shall apply in the case of every medical officer of health of a county.

6. Duties.—A medical officer of health of a county shall, in respect of the county for which he is appointed, in addition to any other duties which may be assigned to him by the county council, carry out the following duties:—

- (1) He shall inform himself as far as practicable respecting all matters affecting or likely to affect the public health in the county and be prepared to advise the county council on any such matter. For this purpose he shall visit the several county districts in the county as occasion may require, giving to the medical officer of health of each county district prior notice of his visit, so far as this may be practicable;
- (2) He shall perform all the duties imposed on a medical officer of health of a county by statute and by any orders, regulations or directions from time to time made or given by the Minister;
- (3) He shall as soon as practicable after the 31st day of December in each year make an annual report to the county council for the year ending on that date on the sanitary circumstances, the sanitary administration and the vital statistics of the county, containing in addition to any other matters upon which he may consider it desirable to report, such information as may from time to time be required by the Minister, and furnish the Minister with as many copies of such report as the Minister may from time to time require;
- (4) He shall furnish the Minister with one copy of any special report which he may make to the county council.

PART III.

Medical Officers of Health of Districts.

7. Application.—(1) This Part of these Regulations shall apply in the case of every medical officer of health of a district.

(2) Articles 8 and 17 comprise the regulations compliance with which is by virtue of subsection (2) of section 108 of the Local Government Act, 1933, obligatory on the council of every borough and of every urban and rural district, and Articles 9 to 16 comprise the regulations compliance with which is by virtue of the said sub-section a condition of the right to receive from the county council any such payment as is mentioned in section 109 of the said Act.

(3) In the case of port sanitary authorities paragraph (2) of this Article shall apply with the substitution for references to the statutory provisions mentioned therein of references to the corresponding provisions relating to such authorities, and as if the words "county council" included a county borough council.

8. Qualifications.—A person shall not be qualified to be hereafter appointed as a medical officer of health of any district unless, in addition to the qualification prescribed by any statute, he is also registered in the medical register as the holder of a diploma in sanitary science, public health, or state medicine.

9. Approval of appointment.—The appointment of a medical officer of health shall be subject to the approval of the Minister.

10. Vacancy to be reported.—When a vacancy in the office of medical officer of health has occurred or is impending, the local authority shall forthwith report the fact to the Minister, stating the cause of the vacancy or impending vacancy.

11. Procedure on appointment.—(1) A local authority shall, before appointing any medical officer of health, submit to the Minister a statement in such form and containing such particulars relating to the appointment as may from time to time be required by the Minister.

(2) A local authority shall, as soon as the approval of the Minister has been given to the proposals contained in the statement so submitted, cause to be inserted in some newspaper or newspapers circulating in the district, at least fourteen days before the date on which it is proposed that the appointment shall be considered by the authority, an advertisement specifying the district for which the appointment is to be made, together with the amount of the salary and of any travelling or other allowances proposed to be assigned, and stating the address to which applications for the appointment should be sent.

12. Tenure of office of officer not restricted from private practice.—If any medical officer of health hereafter appointed is not by the terms of his appointment restricted from engaging in private practice as a medical practitioner, he shall be appointed for a specified term ending on the 31st day of March next following the date of his appointment:

Provided that the appointment of the officer may be determined at any time without notice by the Minister or by the local authority with the consent of the Minister, but not otherwise.

13. Suspension from duty.—A local authority may suspend any medical officer of health from the discharge of his duties and shall forthwith report every such suspension, together with the cause thereof, to the Minister, and if the Minister directs that such suspension shall determine the local authority shall forthwith remove the suspension.

The local authority may withhold the whole or any part of the officer's salary payable in respect of the period of suspension. If the suspension is removed the amount so withheld shall be paid to the officer. If the officer dies or resigns or is removed from office during the period of suspension the

amount so withheld shall not be paid unless the local authority otherwise determine.

14. Officer to give notice of resignation.—A medical officer of health shall not be appointed by a local authority who does not, as one of the terms of his engagement, agree to give at least one month's notice before resigning his office or to forfeit as liquidated damages such sum as may be agreed upon at the date of his appointment.

15. Salary.—A local authority shall pay to every medical officer of health such salary as may from time to time be approved by the Minister :

Provided that the local authority may, with the approval of the Minister, pay to any medical officer of health a reasonable gratuity on account of extraordinary services performed by him, or on account of other unforeseen or special circumstances connected with his duties as medical officer of health or the necessities of the district for which he is appointed.

16. Variation of terms of engagement.—The terms of the engagement of a medical officer of health appointed under this Part of these Regulations shall not be varied without the consent of the Minister.

17. Duties.—A medical officer of health, in respect of the district for which he is appointed shall—

- (1) inform himself as far as practicable respecting all matters affecting or likely to affect the public health in the district and be prepared to advise the local authority on any such matter ;
- (2) perform all the duties imposed on a medical officer of health by statute and by any orders, regulations or directions from time to time made or given by the Minister, and by any byelaws or instructions of the local authority applicable to his office ;
- (3) forward to the Minister by post every week in time to ensure its delivery on Monday, or the morning of Tuesday at the latest, a return, in such form as the Minister may from time to time require, of the number of cases of infectious disease notified to him during the week ended on the preceding Saturday night ; and also (in the case of a county district) forward at the same time a duplicate of the return to the medical officer or officers of health of the county or counties in which the district is situated ;
- (4) as soon as practicable after the 31st day of December in each year furnish to the Minister a report for his district, (or in the case of a union of districts for each constituent district) for the year ending on that date, relating to overcrowding within the meaning of the Housing Act, 1935, and showing—
 - (a) the number of dwellings overcrowded at the end of the year together with the number of families and the number of persons dwelling therein ;
 - (b) the number of new cases of overcrowding reported ;
 - (c) the number of cases of overcrowding relieved and the number of persons concerned ;
 - (d) particulars of any cases in which dwelling-houses in respect of which the local authority have taken steps for the abatement of overcrowding have again become overcrowded ;
 - (e) any other particulars with respect to conditions in relation to overcrowding upon which he may consider it desirable to report or which the Minister may from time to time require.
- (5) as soon as practicable after the 31st day of December in each year make an annual report to the local authority for the year ending on that date on the sanitary circumstances, the sanitary administration, and the vital statistics of the district, containing in addition to any other matters upon which he may consider it desirable to report, such information as may from time to time be required by the Minister, and furnish the Minister with as many copies of such report as the Minister may from time to time require ;

- (6) furnish the Minister and in the case of a county district the county council each with one copy of any special report which he may make to the local authority ;
- (7) forthwith report to the Minister any case of plague, cholera, or small-pox, or any serious outbreak of disease in the district which may be notified to him, or which may otherwise come or be brought to his knowledge, and, in the case of a county district, also notify the medical officer of health of the county.

18. Unions of Districts.—Where two or more districts have been united for the appointment of a medical officer of health and a committee or other body has been constituted for the purpose of appointing or removing such officer that committee or other body shall be deemed to be the local authority for the purposes of Articles 10 to 15 of these Regulations.

PART IV.

Sanitary Inspectors.

19. Application.—(1) This Part of these Regulations shall apply in the case of every sanitary inspector of a district and comprises the regulations compliance with which is not obligatory but is by virtue of subsection (2) of section 108 of the Local Government Act, 1933, a condition of the right to receive from the county council any such payment as is mentioned in section 109 of the said Act.

(2) In the case of port sanitary authorities paragraph (1) of this Article shall apply with the substitution for references to the statutory provisions mentioned therein of references to the corresponding provisions relating to such authorities, and as if the words "county council" included a county borough council.

20. Qualifications.—A person shall not be qualified to be hereafter appointed as a sanitary inspector of any district unless he is the holder of—

- (a) a certificate of the Royal Sanitary Institute and Sanitary Inspectors Examination Joint Board ; or
- (b) a certificate of the late Sanitary Inspectors Examination Board ; or
- (c) a certificate of the Royal Sanitary Institute issued before the 1st day of January, 1926 :

Provided that if the local authority employs a qualified veterinary surgeon for purposes connected with the inspection of meat they may, with the approval of the Minister, appoint him as a sanitary inspector for the purpose only of exercising the powers and duties of such an officer in relation to meat, notwithstanding that he does not possess any of the qualifications prescribed by this Article.

21. Appointment.—The provisions of Articles 9, 10 and 11 of these Regulations shall apply, with the necessary modifications, to the appointment of a sanitary inspector as they apply to the appointment of a medical officer of health.

22. Tenure of office.—(1) Every sanitary inspector hereafter appointed, to whom the provisions of section 110 of the Local Government Act, 1933, or in the case of a port sanitary authority, the provisions of section 2 of the Public Health (Officers) Act, 1921, do not apply, shall be appointed for a specified term ending on the 31st day of March next following the date of his appointment.

(2) Subject to the provisions of these Regulations every sanitary inspector appointed for a specified term shall, on the expiration of that term, unless the local authority not less than three months before the expiration of the term by resolution otherwise determine and give notice to him accordingly, continue to hold office from year to year, subject to the right of the local authority to give not less than three months' notice expiring on the 31st day of March in any year, until he dies or resigns or retires on superannuation,

or is removed by the Minister or by the local authority with the consent of the Minister.

23. Restriction on private business.—Every sanitary inspector hereafter appointed who by the terms of his appointment is not required to devote the whole of his time to the duties of his office or to the duties of that office and of any other office or offices held by him under any local authority or public body shall as one of the terms of his engagement undertake to abstain wholly in his private business from any work arising out of or in any way connected with the discharge of his duties as sanitary inspector.

24. Suspension from duty and notice of resignation.—The provisions of Article 13 (with respect to suspension from duty) and of Article 14 (with respect to notice of resignation) of these Regulations shall apply, with the necessary modifications, to a sanitary inspector as they apply to a medical officer of health.

25. Salary.—The provisions of Article 15 with respect to salary shall apply, with the necessary modifications, to a sanitary inspector as they apply to a medical officer of health.

26. Variation of terms of engagement.—The terms of the engagement of a sanitary inspector appointed under this Part of these Regulations shall not be varied without the consent of the Minister.

27. Duties.—The sanitary inspector as regards the district for which he is appointed shall, except as provided in Article 28 of these Regulations—

- (1) perform under the general direction of the medical officer of health all the duties imposed on a sanitary inspector by statute and by any orders, regulations or directions from time to time made or given by the Minister, and by any byelaws or instructions of the local authority applicable to his office ;
- (2) by inspection of his district, both systematically and at intervals as occasion requires, keep himself informed of the sanitary circumstances of the district and of the nuisances therein that require abatement ;
- (3) report to the local authority any noxious or offensive businesses, trades, or manufactories established within his district, and the breach or non-observance of any byelaws or regulations made in respect thereof ;
- (4) report to the local authority any damage done to any works of water supply or other works belonging to them, and also any case of wilful or negligent waste of water supplied by them, or any fouling by gas, filth, or otherwise of water used or intended to be used for domestic purposes ;
- (5) from time to time, and forthwith upon complaint, visit and inspect the shops and places kept or used for the preparation or sale of any article of food to which the provisions of the statutes and regulations in that behalf apply, and examine any article of food therein, and take such proceedings as may be necessary :

Provided that in any case of doubt arising under this paragraph, he shall report the matter to the medical officer of health, with the view of obtaining his advice thereon ;

- (6) if so directed by the local authority, carry out the duties of a sampling officer under the Food and Drugs (Adulteration) Act, 1928 ;
- (7) if so directed by the local authority, inspect premises used as dairies for the purposes of the Milk and Dairies (Consolidation) Act, 1915, or the Milk and Dairies (Amendment) Act, 1922, or any Act amending those Acts, and any Orders or Regulations made thereunder ;
- (8) give immediate notice to the medical officer of health of the occurrence within his district of any infectious or epidemic disease or other serious outbreak of illness ; and whenever it appears to him that the intervention of such officer is necessary in consequence of the

existence of any nuisance injurious to health, or of any overcrowding in a house or of any other conditions affecting the health of the district; forthwith inform the medical officer of health thereof;

- (9) if so directed by the medical officer of health, remove, or superintend the removal of, patients suffering from infectious disease to an infectious diseases hospital, and perform or superintend the work of disinfection after the occurrence of cases of infectious disease;
- (10) if so directed by the local authority, supervise the scavenging of his district or any part thereof;
- (11) if so directed by the local authority, act as officer of the local authority under the Canal Boats Acts, 1877 and 1884, and the Rats and Mice (Destruction) Act, 1919, and under any orders or regulations made thereunder;
- (12) if so directed by the local authority, act as designated officer for the purposes of the Housing Consolidated Regulations, 1925 and 1932;
- (13) if so directed by the local authority, perform duties of inspection under Part I of the Housing Act, 1935;
- (14) if so directed by the local authority, superintend and see to the due execution of all works which may be undertaken by their direction for the suppression or removal of nuisances;
- (15) carry out any duties imposed upon him by the local authority with reference to the provisions of the Shops Act, 1934, relating to ventilation, temperature, and sanitary conditions;
- (16) enter from day to day, in a book or on separate sheets or cards provided by the local authority, particulars of his inspections and of the action taken by him in the execution of his duties;
- (17) at all reasonable times, when applied to by the medical officer of health, produce to him his books, or any of them, and render to him such information as he may be able to furnish with respect to any matter to which the duties of sanitary inspector relate;
- (18) as soon as practicable after the 31st day of December in each year, furnish the medical officer of health with a tabular statement containing the following particulars:—
 - (a) the number and nature of inspections made by him during the year;
 - (b) the number of notices served during the year, distinguishing statutory from other notices;
 - (c) the result of the service of such notices.

28. Districts with two or more sanitary inspectors.—When in any district there are two or more sanitary inspectors, nothing in these Regulations shall be deemed to prevent the local authority from distributing among them the duties directed by these Regulations to be performed by a sanitary inspector.

PART V.

General.

29. Power to dispense with requirements of Regulations.—The Minister may dispense with any of the requirements of these Regulations in any case in which it appears to him desirable so to do, on such terms and conditions as he thinks fit, and such dispensation may be given at any time, provided that the Minister is satisfied that the interest of any person will not be prejudiced thereby.

Given under the official seal of the Minister of Health this seventh day of November, nineteen hundred and thirty-five.

The Sanitary Officers (London) Regulations, 1935.

Dated 7 November, 1935.

S. R. & O., 1935, No. 1111.

83298.

The Minister of Health in pursuance of his powers under section 108 of the Public Health (London) Act, 1891, and section 11 of the Housing Act, 1935, hereby makes the following Regulations :—

1. These Regulations may be cited as the Sanitary Officers (London) Regulations, 1935, and shall come into force on the 1st day of January, 1936.

2. The duties of the medical officers of health of the City of London and of the metropolitan boroughs as prescribed in article 14 of the Sanitary Officers Order, 1926, shall include the duty to furnish to the Minister of Health as soon as practicable after the 31st day of December in each year a report for his district for the year ending on that date relating to overcrowding within the meaning of the Housing Act, 1935, and showing—

- (a) the number of dwellings overcrowded at the end of the year together with the number of families and the number of persons dwelling therein ;
- (b) the number of new cases of overcrowding reported ;
- (c) the number of cases of overcrowding relieved and the number of persons concerned ;
- (d) particulars of any cases in which dwelling-houses in respect of which the local authority have taken steps for the abatement of overcrowding have again become overcrowded ; and
- (e) any other particulars with respect to conditions in relation to overcrowding upon which he may consider it desirable to report or which the Minister may from time to time require.

Given under the official seal of the Minister of Health this seventh day of November, nineteen hundred and thirty-five.

**The Housing Act (Forms of Orders and Notices) Regulations, 1937,
made by the Minister of Health under section 176 (1) of the
Housing Act, 1936.**

Dated 25 January, 1937.

S. R. & O., 1937, No. 78.

88492.

The Minister of Health in exercise of the powers conferred on him by section 176 (1) of the Housing Act, 1936, and all other powers enabling him in that behalf, hereby makes the following Regulations :—

1. These Regulations may be cited as the Housing Act (Forms of Orders and Notices) Regulations, 1937, and shall come into operation forthwith.

2. The forms set out in the schedule hereto or forms substantially to the like effect shall be the forms to be used in connection with the powers and duties of the local authority under the Housing Act, 1936, in all cases to which those forms are applicable.

3. The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

4. The Housing Acts (Forms of Orders and Notices) Regulations, 1936, are hereby revoked except in so far as the forms therein prescribed are required to be used in connection with proceedings after the date of the commencement of the Housing Act, 1936, consequent upon action taken before that date.

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Note.—For forms and notices relating to Compulsory Purchase under Part V, see now S. R. & O., 1946, No. 573, p. 701, *post*.

THE SCHEDULE.

FORM No. 1.

Section 157.

NOTICE BEFORE ENTRY FOR THE PURPOSE OF SURVEY AND EXAMINATION, OR VALUATION.

Housing Act, 1936.

To ¹ * the ²
 of the house ³ buildings ³ premises ³
 Take Notice that in pursuance of section 157 of the Housing Act, 1936, I ⁴
 being a person duly authorised in writing by
 intend on the ⁵
 day of 19 , between the hours of
 in the forenoon and in the afternoon, to enter the above-
 mentioned house for the purpose of ⁶ survey and examination or survey or valuation.
 Dated this day of , 19 .
 Signature } of person authorised
 Description } to enter.
 Residence or Place of Business }

DIRECTIONS FOR FILLING UP THIS FORM.

Insert—

- ¹ The names and description of occupier and owner (where known).
- ² " occupier " or " owner ".
- ³ Such description of the house, buildings or premises as may be sufficient for identification. Strike out the words not required.
- ⁴ Name and description of person authorised by the local authority to enter.
- ⁵ Description of the Local Authority.
- ⁶ Specify the particular purpose for which entry is authorised.
- * Notice must be given to the occupier and also to the owner if the owner is known. The method of service is regulated by section 167 of the Act.
- † Twenty-four hours' notice must be given.

FORM No. 2.

Section 9.

NOTICE REQUIRING THE PERSON HAVING CONTROL OF A HOUSE TO EXECUTE WORKS.

Housing Act, 1936.

To ¹
 the person * having control of the house ²
 Take Notice :—
 (1) that the ³ (hereinafter referred to as " the Council ") are satisfied that the above-mentioned house, which is occupied or is of a type suitable for occupation by persons of the working classes, is unfit for human habitation in certain respects ;
 (2) that the Council are not satisfied that it is incapable at reasonable expense of being rendered fit for human habitation ;
 (3) that in pursuance of subsection (1) of section 9 of the Housing Act, 1935, the Council require you within a period of ⁴ days ending on the day of 19 to execute the following works, which will in the opinion of the Council render the house fit for human habitation, namely ⁵
 Dated this day of , 19 .
 Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

- ¹ Name and address, where known, of person having control of the house.
- ² Such description of the house as may be sufficient for identification.
- ³ Description of the Local Authority.
- ⁴ Time allowed for execution of works, being in no case less than 21 days. (Particular care should be taken that the time allowed is reasonably sufficient for the purpose.)
- ⁵ Specification in detail of works to be executed.
- * Under s. 9 (4) of the Act the person who receives the rack rent of the house, whether on his own account or as agent or trustee for any other person, or who would so receive it if the house were let at a rack rent is deemed to be the person having control of the house. Rack rent means a rent which is not less than two-thirds of the full net annual value of the house.

NOTE.

A person aggrieved may appeal to the County Court against any notice requiring him to execute works under section 9 of the Act, and against any demand for the recovery of expenses from him or an order in respect of those expenses, made by the local authority under section 10 (5) of the Act by giving notice of appeal to the County Court within the jurisdiction of which the premises to which the notice, demand or order relates are situate. The appeal must be made within 21 days after the date of the service of the notice, demand or order, and no proceedings may be taken by the local authority to enforce any notice, demand or order against which an appeal is brought before the appeal has been finally determined. On an appeal against a demand or order no question can be raised which might have been raised on an appeal against the original notice requiring the execution of the works.

The County Court Rules provide that an appeal shall be brought by giving notice of the appeal to the local authority and at the same time requesting the Registrar of the County Court having jurisdiction in the matter to enter the appeal.

The County Court Rules further provide that the notice to the local authority and the request to the Registrar for entry of the appeal shall, so far as circumstances permit, be in accordance with the forms prescribed by the rules.

If the notice of the local authority is not complied with, then after the expiration of the time specified in the notice, or, if an appeal has been made against the notice and upon that appeal the notice has been confirmed with or without variation, after the expiration of twenty-one days from the final determination of the appeal, or of such longer period as the court in determining the appeal may fix, the local authority may themselves do the work required to be done by the notice, or by the notice as varied by the court, as the case may be.

Any expenses incurred by the local authority under section 10, together with interest, at such rate as the Minister may with the approval of the Treasury from time to time by order fix, from the date when a demand for the expenses is served until payment, may be recovered by them, by action or summarily as a civil debt, from the person having control of the house or, if he receives the rent of the house as agent or trustee for some other person, then either from him or from that other person, or in part from him and as to the remainder from that other person :

Provided that if the person having control of the house proves that he—

- (i) is receiving the rent merely as agent or trustee for some other person ; and
- (ii) has not, and since the date of the service on him of the demand has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the authority,

his liability shall be limited to the total amount of the money, which he has, or has had, in his hands as aforesaid.

The local authority may by order declare any such expenses to be payable by weekly or other instalments within a period not exceeding thirty years with interest at such rate as the Minister may, with the approval of the Treasury, from time to time by order fix, from the date of the service of the demand until the whole amount is paid. Any such instalments and interest, or any part thereof, may be recovered summarily as a civil debt from any owner or occupier of the house, and, if recovered from an occupier, may be deducted by him from the rent of the house.

FORM No. 3.

ORDER DECLARING EXPENSES INCURRED BY THE LOCAL AUTHORITY TO BE PAYABLE Section 10(5).
BY WEEKLY OR OTHER INSTALMENTS.

Housing Act, 1936.

To _____ the owner
occupier of the house,¹

Whereas by a notice dated the _____ day of _____ 19____, the²

(hereinafter referred to as "the Council") in pursuance of section 9 of the Housing Act, 1936, have required the person having control of the above-mentioned house to execute, within the time specified in that notice, the works specified in the said notice, stating therein that such works would in their opinion render the house fit for human habitation ;

And Whereas the said notice has not been complied with and the Council in pursuance of section 10 of the said Act have done the work required to be done and have incurred in so doing expenses amounting to the sum of £ _____ :

Now Therefore the Council in pursuance of their powers under section 10 (5) of

the Housing Act, 1936, hereby declare that the said expenses amounting to the sum of £ shall be payable by weekly * instalments of £ within a period not exceeding † years with interest at the rate of ‡ pounds per cent. per annum, until the whole amount is paid.

Dated the day of , 19 .

(To be sealed with the common seal of the Local Authority and signed by their Clerk.)

DIRECTIONS FOR FILLING UP THIS FORM.

- ¹ Such description of the house as may be sufficient for identification.
- ² Description of the Local Authority.
- * Or monthly, quarterly, or annual, or as the case may be.
- † The period to be specified must not exceed thirty years.
- ‡ The rate of interest is prescribed by the Minister of Health with the approval of the Treasury.

NOTE.

By subsection (5) of section 10 of the Act it is provided that any instalments and interest or any part thereof under an order of the local authority declaring their expenses to be payable by weekly or other instalments may be recovered summarily as a civil debt from any owner or occupier, and if recovered from the occupier may be deducted by him from the rent of the house.

Any person aggrieved may appeal to the County Court against any notice requiring him to execute works under section 9 of the Act, and against any demand for the recovery of expenses from him or an order in respect of those expenses, made by the local authority under section 10 of the Act by giving notice of appeal to the County Court within the jurisdiction of which the premises to which the notice, demand or order relates are situate. The appeal must be made within 21 days after the date of the service of the notice, demand or order, and no proceedings may be taken by the local authority to enforce any notice, demand or order against which an appeal is brought before the appeal has been finally determined. On an appeal against a demand or order no question can be raised which might have been raised on an appeal against the original notice requiring the execution of the works.

The County Court Rules provide that an appeal shall be brought by giving notice of the appeal to the local authority and at the same time requesting the Registrar of the County Court having jurisdiction in the matter to enter the appeal.

The County Court Rules further provide that the notice to the local authority and the request to the Registrar for entry of the appeal shall, so far as circumstances permit, be in accordance with the forms prescribed by the rules.

FORM No. 4.

Section 11.

NOTICE OF TIME AND PLACE AT WHICH MATTERS RELATING TO THE MAKING OF A DEMOLITION ORDER IN RESPECT OF A HOUSE WILL BE CONSIDERED.

Housing Act, 1936.

To ¹
the person having control of the house ²
and to ¹
of the said house and to ¹
mortgagees of the said house;

the owners

Whereas the ³ (hereinafter referred to as "the Council") are satisfied that the above-mentioned house, which is occupied or is of a type suitable for occupation by persons of the working classes, is unfit for human habitation and is not capable at a reasonable expense of being rendered so fit.

Take Notice that the condition of the above-mentioned house, and any offer, of which notice is duly given, with respect to the carrying out of works thereto, and any offer with respect to the future user of the house will be considered by the Council at on the * day of

19 , at in the noon, when any of the persons to whom this notice is addressed will be entitled to be heard.

If you intend to submit an offer with respect to the carrying out of works, you are required, under the provisions of section 11 (2) of the Housing Act, 1936, to serve notice in writing upon the Council, within twenty-one days from the date of the service of this notice, stating your intention to make such an offer.

After giving such notice of intention you will be required to submit a list of the

works which you offer to carry out before the date fixed above for the consideration of such an offer [or within such reasonable period thereafter as the Council may allow].

Dated this _____ day of _____, 19 ____.

Signature of the Clerk of the Local Authority (a).

DIRECTIONS FOR FILLING UP THIS FORM.

- ¹ Name and address, where known.
- ² Such a description of the house as may be sufficient for identification.
- ³ Description of the Local Authority.

* At least 21 days' notice must be given, but the time should in any case be sufficient to allow a reasonable period for the submission of a list of works after notice has been duly served on the Council.

(a) For addendum to be made to the form of this order see S. R. & O., 1939, No. 30, p. 554, *post*.

FORM No. 4A.

NOTICE OF TIME AND PLACE AT WHICH THE QUESTION OF MAKING A DEMOLITION ORDER IN RESPECT OF AN OBSTRUCTIVE BUILDING WILL BE CONSIDERED.

Section 54.

Housing Act, 1936.

To ¹

the owner(s) of building known as ²

Whereas it appears to the ³

that the above-mentioned building by reason only of its contact with, or proximity to, other buildings is dangerous or injurious to health, and is an obstructive building within the meaning of section 54 of the Housing Act, 1936:

Take Notice that the question of ordering the demolition of the above-mentioned building will be considered by the Council at _____ on the *
day of _____ 19 ____, at _____ in the _____ noon,
and that you will be entitled to be heard when the matter is so taken into consideration.

Dated this _____ day of _____, 19 ____.
Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

- ¹ Name and address, where known.
- ² Such description of the building as may be sufficient for identification.
- ³ Description of the Local Authority.
- * Not less than 21 days' notice must be given.

FORM No. 5.

ORDER FOR DEMOLITION OF A HOUSE.

Section 11.

Housing Act, 1936.

Whereas the ¹

(hereinafter referred to as "the Council") are satisfied that the house ²

which is occupied, or of a type suitable for occupation, by persons of the working classes, is unfit for human habitation and is not capable at a reasonable expense of being rendered so fit;

And Whereas in accordance with the requirements of section 11 of the Housing Act, 1936, notices of the time and place fixed for the consideration of the condition of the above-mentioned house and any offer with respect to the carrying out of works or the future user of the house have been duly served upon all persons upon whom such notices are required to be served;

And Whereas the Council after such consideration have not accepted an undertaking from an owner or mortgagee with respect to the carrying out of works or the future user of the house:

Now Therefore the Council, in pursuance of sub-section (4) of section 11 of the Housing Act, 1936, hereby order as follows:—

- (1) that the said house be vacated within ³
days from the date on which this order becomes operative;
- (2) that the said house be demolished within six ⁴ weeks after the expiration of the last-mentioned period, or, if the house is not vacated before the expiration of that period, within six ⁴ weeks after the date on which it is vacated.

Dated this _____ day of _____, 19__.

DIRECTIONS FOR FILLING UP THIS FORM.

- ¹ Description of the Local Authority.
² Such description of the house as may be sufficient for identification.
³ This period must not be less than 28 days.
⁴ A longer period may be specified if the Council think fit.
⁵ This paragraph may be omitted if the Council do not intend to cleanse the building.

Any person aggrieved by a demolition order made under section 11 of the Act may, within 21 days after the date of the service of the order, appeal to the County Court within the jurisdiction of which the premises to which the order relates are situate. No proceedings may be taken by the local authority to enforce any order against which an appeal is brought, before the appeal has been finally determined.

The County Court Rules provide that an appeal shall be brought by giving notice of the appeal to the local authority and at the same time requesting the Registrar of the County Court having jurisdiction in the matter to enter the appeal.

A demolition order does not become operative until either the time within which an appeal can be made has elapsed without an appeal being made or in case an appeal is made the appeal is finally determined or withdrawn. When a demolition order has become operative the local authority are required by section 155 (1) of the Act to serve on the occupier of any building or any part of any building to which the order relates, a notice stating the effect of the order and specifying the date by which the order requires the building to be vacated and requiring him to quit the building before that date or before the expiration of 28 days from the service of the notice whichever may be the later.

Section 17 of the Act provides that if it appears to the local authority that a building to which a demolition order applies, requires to be cleansed from vermin, the authority may, at any time between the date on which the order is made and the date on which it becomes operative, serve notice in writing on the owner or owners that the authority intend to cleanse the building before it is demolished. A local authority who have served such a notice may, at any time after the order has become operative and the building has been vacated, enter and carry out such work as they may think requisite for the purpose of destroying or removing vermin and the demolition of the building shall not be begun or continued by any owner after service of such notice on him except in accordance with the provisions of sub-section (2) of that section.

Section 11.

Housing Act, 1936.

Whereas the¹ (hereinafter referred to as "the Council") in pursuance of section 11 of the Housing Act, 1936, having been satisfied that the house², which is occupied or of a type suitable for occupation by persons of the working classes, was unfit for human habitation and was not capable at a reasonable expense

of being rendered so fit, and having complied with the provisions of the said section as to the service of notices and the consideration of representations made by the persons upon whom notices were served, accepted on the day of , being the owner [or mortgagee] of the house in the following terms :—

[Here set out the terms of the undertaking.]

And Whereas the said undertaking has been broken in the following respects :—

[Here give particulars of the breaches of the undertaking.]

Now Therefore the Council in pursuance of sub-section (4) of section 11 of the Housing Act, 1936, hereby order as follows :—

- (1) that the said house be vacated within ³ days from the date on which this order becomes operative ;
- (2) that the said house be demolished within ⁴ six weeks after the expiration of the last-mentioned period or, if the house is not vacated before the expiration of that period within ⁴ six weeks after the date on which it is vacated.

⁵ [Demolition under this order shall be deferred if the Council, at any time before the order becomes operative, give notice that they intend to cleanse the said house from vermin before it is demolished.]

Dated this day of , 19 .
(To be sealed with the common seal of the Local Authority and signed by their Clerk.)

DIRECTIONS FOR FILLING UP THIS FORM.

- ¹ Description of the Local Authority.
- ² Such description of the house as may be sufficient for identification.
- ³ This period must not be less than 28 days.
- ⁴ A longer period may be specified if the Council think fit.
- ⁵ This paragraph may be omitted if the Council do not intend to cleanse the building.

NOTE.

Any person aggrieved by a demolition order made under section 11 of the Act may, within 21 days after the date of the service of the order, appeal to the County Court within the jurisdiction of which the premises to which the order relates are situate. No proceedings may be taken by the local authority to enforce any order against which an appeal is brought, before the appeal has been finally determined.

No appeal lies against a demolition order at the instance of a person who is in occupation of the premises to which the order relates under a lease or agreement of which the unexpired term does not exceed three years.

The County Court Rules provide that an appeal shall be brought by giving notice of the appeal to the local authority and at the same time requesting the Registrar of the County Court having jurisdiction in the matter to enter the appeal.

The County Court Rules further provide that the notice to the local authority and the request to the Registrar for entry of the appeal shall, so far as circumstances permit, be in accordance with the forms prescribed by the rules.

A demolition order does not become operative until either the time within which an appeal can be made has elapsed without an appeal being made or in case an appeal is made the appeal is finally determined or withdrawn. When a demolition order has become operative the local authority are required by section 155 (1) of the Act to serve on the occupier of any building or any part of any building to which the order relates, a notice stating the effect of the order and specifying the date by which the order requires the building to be vacated and requiring him to quit the building before that date or before the expiration of 28 days from the service of the notice, whichever may be the later.

Section 155 (3) of the Act provides that any person who, knowing that a demolition order has become operative and applies to any building, enters into occupation of that building, or any part thereof, after the date by which the order requires that building to be vacated, or permits any other person to enter into such occupation after that date, shall be liable on summary conviction to a fine not exceeding £20 and to a further penalty of £5 for every day, or part of a day, on which occupation continues after conviction.

Section 17 of the Act provides that if it appears to the local authority that a building to which a demolition order applies, requires to be cleansed from vermin, the authority may, at any time between the date on which the order is made and the

date on which it becomes operative, serve notice in writing on the owner or owners that the authority intend to cleanse the building before it is demolished. A local authority who have served such a notice may, at any time after the order has become operative and the building has been vacated, enter and carry out such work as they may think requisite for the purpose of destroying or removing vermin and the demolition of the building shall not be begun or continued by any owner after service of such notice on him except in accordance with the provisions of sub-section (2) of that section.

FORM No. 6.

NOTICE OF INTENTION TO CLEANSE FROM VERMIN A BUILDING TO BE DEMOLISHED
UNDER A DEMOLITION ORDER OR CLEARANCE ORDER.*Housing Act, 1936.*Sections 17
and 26.

To ¹
the building ²
dwelling-house to which a demolition order made on the day
of 19 , applies. confirmed ^{owner of}
^{being a}

Take Notice that the ³
in pursuance of their powers under section[s] 17 * [and 26] of the Housing Act, 1936,
intend to cleanse the above-mentioned building from vermin before it is demolished.

Section 17 * [which, by section 26 (7) of the Act, is made applicable in the case
of a house to which a clearance order applies] in effect provides that a local authority,
who have served a notice that they intend to cleanse a building to which a demolition
order * [clearance order] applies, may, at any time after the order has become opera-
tive and the building has been vacated, enter the building and carry out such work
as they think requisite for the purpose of destroying or removing vermin, and that
the demolition of the building shall not be begun or continued by any owner after
service of such a notice until the authority have served a further notice authorising
him to proceed with the demolition :

Provided that an owner upon whom a notice has been served may at any time
after the building has been vacated, serve notice in writing on the authority requiring
them to carry out the work within fourteen days from the receipt of the notice served
by him, and at the expiration of that period he shall be at liberty to proceed with
the demolition of the building whether the work has then been completed or not.

Dated this day of , 19 .

Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

- ¹ Name and address.
- ² Description of the building to which the notice relates.
- ³ Description of the Local Authority.
- * Strike out if inapplicable.

FORM No. 6A.

NOTICE TO PROCEED WITH DEMOLITION AFTER A BUILDING HAS BEEN CLEANSED
FROM VERMIN.*Housing Act, 1936.*

Section 17.

To ¹
owner of ²
Take notice that the ³
have completed the cleansing from vermin of the above-mentioned premises to which
a [demolition order] or [clearance order] applies and became operative on the
day of , 19 , and in relation to which a notice of
intention to cleanse was served upon you by the Council on the day
of , 19 .

You are hereby authorised and required to proceed with the demolition of the
said building in accordance with the said [demolition order] or [clearance order].

Dated this day of , 19 .

Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

- ¹ Name and address.
- ² Description of the building to which the notice relates.
- ³ Description of the Local Authority.

FORM No. 7.

ORDER FOR THE DEMOLITION OF AN OBSTRUCTIVE BUILDING.

Section 54.

Housing Act, 1936.

Whereas the¹ (hereinafter referred to as "the Council") after complying with the requirements of section 54 of the Housing Act, 1936, are satisfied that the building known as² is a building which by reason only of its contact with, or proximity to, other buildings, is dangerous or injurious to health, and is an obstructive building within the meaning of section 54 of the said Act, and that the said building [or part of the said building comprising³] ought to be demolished :

Now Therefore the Council in pursuance of subsection (2) of section 54 of the Housing Act, 1936, hereby order as follows :—

- (1) that the said building [or part of the said building comprising³] be vacated for the purposes of demolition within two months from the date on which this order becomes operative ;
- (2) that the said building [or the afore-mentioned part of the said building] be demolished before the expiration of six weeks * from the last day of the said period of two months, or if the building [or such part of the building] is not vacated until after that day, before the expiration of six weeks * after the date on which it is vacated.

Dated this day of , 19 .

(To be sealed with the common seal of the Local Authority and signed by their Clerk.)

DIRECTIONS FOR FILLING UP THIS FORM.

¹ Description of the Local Authority.

² Such description of the building as may be sufficient for identification.

³ If the order requires vacation and demolition of part only of the building insert sufficient description of such part.

* A longer period may be specified if the Local Authority think fit.

NOTE.

Section 54 of the Act defines an " obstructive building " as one which by reason only of its contact with or proximity to other buildings is dangerous or injurious to health.

The same section provides that a local authority may serve upon the owner or owners of a building which appears to them to be an obstructive building a notice of the time (not less than twenty-one days after the service of the notice) and place at which the question of the ordering of the demolition of the building will be considered by the authority and owners are entitled to be heard when the matter is so considered. If after such consideration the authority are satisfied that the building is an obstructive building and that the whole or any part of it ought to be demolished, they may make an order requiring that the building or any part of it shall be demolished, and that the building or such part of it as is required to be vacated for purposes of demolition, shall be vacated within two months from the date on which the order becomes operative. A copy of such order must be served on the owner or owners of the building.

Section 55 of the Act in effect provides that if before the expiration of the above-mentioned period of two months the owner or owners offer to sell the building and its site to the local authority at a price to be assessed, as if it were compensation for a compulsory purchase, by arbitration in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919, subject to the rules specified in the Fourth Schedule to the Housing Act, 1936, and if such acquisition would enable the local authority to carry out the demolition provided for by the order, the authority shall accept such offer and shall, as soon as possible after obtaining possession, carry out the demolition of the building. The section also provides that if no such offer is made the owner or owners of the building shall carry out the demolition required by the order before the expiration of six weeks from the last day of the said period of two months or, if the building, or such part of it as is required to be vacated, is not vacated until after that day, before the expiration of six weeks from the day on which it is vacated or, in either case, within such longer period as in the circumstances the local authority deem reasonable.

Where the demolition of the building is carried out under section 55 either by the owners or by the local authority compensation is required to be paid by the authority to the owners in respect of loss arising from such demolition and, notwithstanding that no land is acquired compulsorily by the authority, such compensation

is to be assessed in accordance with the provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919, subject to the rules specified in the Fourth Schedule to the Housing Act, 1936, and as modified by subsection (4) of section 55 of the Act.

The provisions of section 15 of the Act are applicable to a demolition order in respect of an obstructive building. This section provides that any person aggrieved by a demolition order may appeal, within twenty-one days after the date of the service of the order, to the County Court within the jurisdiction of which the premises are situate.

The County Court Rules provide that an appeal shall be brought by giving notice of the appeal to the local authority and at the same time requesting the Registrar of the County Court having jurisdiction in the matter to enter the appeal.

The County Court Rules further provide that the notice to the local authority and the request to the Registrar for entry of the appeal shall, so far as circumstances permit, be in accordance with the forms prescribed by the rules.

If no appeal is brought within the above-mentioned period of twenty-one days the order will become operative on the expiration of that period, but in case an appeal is made the order will not become operative until the appeal is finally determined or withdrawn.

The provisions of section 155 of the Act relating to the recovery of possession of buildings in respect of which a demolition order has become operative, are applicable to this order. By subsection (3) of that section it is provided that any person who knowing that a demolition order has become operative and applies to any building, enters into occupation of that building or any part thereof after the date by which the order requires that building to be vacated, or permits any other person to enter into such occupation after that date, shall be liable on summary conviction to a fine not exceeding twenty pounds and to a further penalty of five pounds for every day or part of a day on which the occupation continues after conviction.

FORM No. 8.

Section 155.

NOTICE TO OCCUPIER TO QUIT HOUSE AFTER DEMOLITION ORDER HAS BECOME OPERATIVE.

Housing Act, 1936.

To ¹ the occupier of the
house ²

Take Notice :—

That on the _____ day of _____, 19____, the ³

in pursuance of section 11 of
the Housing Act, 1936, made an order (hereinafter called "the demolition order") :—

- (a) that the above-mentioned house be vacated within _____ days from the date on which the order should become operative ;
- (b) that the said house be demolished within six weeks * after the expiration of the last-mentioned period or if the house should not be vacated by that date within six weeks * after the date on which it is vacated.

And that the demolition order became operative on the
day of _____, 19____ ;

And that in pursuance of section 155 of the Housing Act, 1936, you are required
to quit the said house before the _____ day of _____,
19____.

Dated this _____ day of _____, 19____.

Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

¹ Name of occupier.

² Such description of the house as may be sufficient for identification.

³ Description of the Local Authority.

* Or such longer period as may have been specified by the Council.

NOTE.

Section 155 (1) of the Act provides :—

Where a demolition order has become operative, the local authority shall serve on the occupier of any building or any part of any building to which the order relates a notice stating the effect of the order and specifying the date by which the order requires the building to be vacated and requiring him to quit the building before the said date or before the expiration of twenty-eight days from the service of the notice, whichever may be the later ; and if at any time

after the date on which the notice requires the building to be vacated any person is in occupation of the building, or of any part thereof, the authority or any owner of the building may make complaint to a court of summary jurisdiction and thereupon the court shall by their warrant in the form set out in the Schedule to the Small Tenements Recovery Act, 1838, or in a form to the like effect, order vacant possession of the building or of the part thereof to be given to the complainant within such period not being less than two weeks nor more than four weeks as the court may determine.

Section 155 (3) of the Act provides :—

Any person who, knowing that a demolition order has become operative and applies to any building, enters into occupation of that building, or of any part thereof, after the date by which the order requires that building to be vacated, or permits any other person to enter into such occupation after that date, shall be liable on summary conviction to a fine not exceeding twenty pounds and to a further fine of five pounds for every day, or part of a day, on which the occupation continues after conviction.

FORM No. 8A.

NOTICE TO OCCUPIER TO QUIT AN OBSTRUCTIVE BUILDING AFTER DEMOLITION ORDER HAS BECOME OPERATIVE. Section 155.

Housing Act, 1936.

To ¹ _____ the occupier of
the building known as ²

Take Notice :—

That the ³ _____ in pursuance of section 54 of the
Housing Act, 1936, on the _____ day of _____ 19 _____, made an order
(hereinafter called " the demolition order ") as follows :—

- (a) that the said building [or part of the said building comprising ⁴ _____]
_____] be vacated within two months from the date on
which this order becomes operative ;
- (b) that the said building [or the afore-mentioned part of the said building] be
demolished before the expiration of six weeks * from the last day of the
said period of two months, or if the building [or such part of the building]
should not be vacated until after that day, before the expiration of six
weeks * after the date on which it is vacated.

And that the demolition order became operative on the _____ day
of _____ 19 _____ ;

And that in pursuance of section 155 of the Housing Act, 1936, you are required
to quit [the said part of] the said building before the _____ day of _____
19 _____ .

Dated this _____ day of _____ , 19 _____ .
Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

¹ Name of occupier.

² Such a description of the building as may be sufficient for identification.

³ Description of the Local Authority.

⁴ If the order requires vacation and demolition of part of the building insert
sufficient description of such part.

* Or such longer period as may have been specified by the Council.

NOTE.

Section 155 (1) of the Act provides :—

Where a demolition order has become operative, the local authority shall serve on the occupier of any building or any part of any building to which the order relates a notice stating the effect of the order and specifying the date by which the order requires the building to be vacated and requiring him to quit the building before the said date or before the expiration of twenty-eight days from the service of the notice, whichever may be the later ; and if at any time after the date on which the notice requires the building to be vacated any person is in occupation of the building, or of any part thereof, the authority or any owner of the building may make complaint to a court of summary jurisdiction and thereupon the court shall by their warrant in the form set out in the Schedule to the Small Tenements Recovery Act, 1838, or in a form to the like effect, order

vacant possession of the building or of the part thereof to be given to the complainant within such period not being less than two weeks nor more than four weeks as the court may determine.

Section 155 (3) of the Act provides :—

Any person who, knowing that a demolition order has become operative and applies to any building, enters into occupation of that building, or of any part thereof, after the date by which the order requires that building to be vacated, or permits any other person to enter into such occupation after that date, shall be liable on summary conviction to a fine not exceeding twenty pounds and to a further fine of five pounds for every day, or part of a day, on which the occupation continues after conviction.

FORM No. 9.

Section 12.

NOTICE OF TIME AND PLACE AT WHICH MATTERS RELATING TO THE MAKING OF A CLOSING ORDER IN RESPECT OF PART OF A BUILDING WILL BE CONSIDERED.

Housing Act, 1936.

To ¹ _____ the person
having control of part of the building ² _____
comprising ³ _____, and to ¹

_____ the owners of the above-mentioned
part of the said building, and to ¹ _____ the
mortgagees of the said building ;

Whereas the ⁴ _____
are satisfied that the above-mentioned part of the said building [which is occupied or of a type suitable for occupation by persons of the working classes, is unfit for human habitation and is not capable at reasonable expense of being rendered so fit ;] or [is an underground room which, under the provisions of section 12 (2) of the Housing Act, 1936, is deemed to be unfit for human habitation ;]

Take Notice that the condition of the above-mentioned [part of the said building] [room] and any offer with respect to the carrying out of works or the future user thereof will be considered by the Council at _____ on ⁵ _____ the
_____ day of _____, 19 _____, at
_____ noon when any of the persons to whom this notice is addressed will
be entitled to be heard.

Dated this _____ day of _____, 19 _____.
Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

- ¹ Name and address, where known.
- ² Such description of the building as may be sufficient for identification.
- ³ Such description of the part of the building or underground room as may be sufficient for identification.
- ⁴ Description of the Local Authority.
- ⁵ Not less than 31 days notice must be given.

FORM No. 10.

Section 12.

CLOSING ORDER IN RESPECT OF PART OF A BUILDING.

Housing Act, 1936.

Whereas the ¹ _____
(hereinafter referred to as "the Council") are satisfied that a part of the building ² _____
comprising ³ _____ [which is
occupied or of a type suitable for occupation by persons of the working classes, is unfit for human habitation and is not capable at reasonable expense of being rendered so fit ;] or [is an underground room, which under the provisions of section 12 (2) of the Housing Act, 1936, is deemed to be unfit for human habitation ;]

And Whereas in accordance with the requirements of section 11 of the Housing Act, 1936, notices of the time and place fixed for the consideration of the condition of the above-mentioned [part of the said building] [room] and any offer with respect to the carrying out of works or the future user thereof have been duly served upon all persons upon whom such notices are required to be served :

Now Therefore the Council in pursuance of section 12 of the Housing Act, 1936, hereby prohibit the use of the above-mentioned [part of the said building] [room] for any purposes other than ⁴ _____

(To be sealed with the common seal of the Local
Authority and signed by their Clerk.)

DIRECTIONS FOR FILLING UP THIS FORM.

- ¹ Description of the Local Authority.
- ² Such description of the building as may be sufficient for identification.
- ³ Such description of the part of the building or underground room as may be sufficient for identification.
- ⁴ Any purpose or purposes approved by the authority for which the premises may be used should be inserted.

NOTE.

Section 12 of the Act provides that a local authority may under Part II of the Act take the like proceedings in relation to any part of a building which is occupied, or is of a type suitable for occupation by persons of the working classes, or in relation to any underground room which is for the purposes of the section to be deemed to be unfit for human habitation, as they are empowered to take in relation to a house, subject, however, to this qualification that, in the circumstances in which, in the case of a house, they would have made a demolition order, they shall make a closing order prohibiting the use of the part of the building or of the room, as the case may be, for any purpose other than a purpose approved by the local authority. The section provides that the approval of the authority shall not be unreasonably withheld and that the authority are required to determine a closing order made by them on being satisfied that the part of the building or the room to which it relates has been rendered fit for human habitation.

Section 15 of the Act provides that any person aggrieved by a closing order may within 21 days after the date of service of the order, appeal to the County Court within the jurisdiction of which the premises to which the order relates are situate. No proceedings may be taken by the local authority to enforce any order against which an appeal is brought before the appeal has been finally determined. No appeal lies at the instance of a person who is in occupation of the premises to which the order relates under a lease or agreement of which the unexpired term does not exceed three years. The section also provides for an appeal to the County Court against a withholding of approval by the local authority in relation to the use for any purpose of premises in respect of which a closing order is in force.

The County Court Rules provide that an appeal shall be brought by giving notice of the appeal to the local authority and at the same time requesting the Registrar of the County Court having jurisdiction in the matter to enter the appeal.

The County Court Rules further provide that the notice to the local authority and the request to the Registrar for entry of the appeal shall, so far as circumstances permit, be in accordance with the forms prescribed by the rules.

A closing order does not become operative until either the time within which an appeal can be made has elapsed without an appeal being made or in case an appeal is made the appeal is finally determined or withdrawn.

Section 14 of the Act provides that any person who, knowing that a closing order has become operative and applies to any premises, uses those premises in contravention of the terms of the order, or permits them to be so used, shall be liable on summary conviction to a fine not exceeding £20 and to a further fine of £5 for every day or part of a day on which he so uses them, or permits them to be so used, after conviction.

FORM No. 11.

ORDER DETERMINING CLOSING ORDER IN RESPECT OF PART OF A BUILDING.

Section 12
(1) (b).

Housing Act, 1936.

Whereas the¹
(hereinafter referred to as "the Council") in pursuance of section 12 of the Housing Act, 1936, on the day of 19 , made a closing order in respect of [part of the building² comprising³] [an underground room³ in the building²] and by the said closing order the Council prohibited the use of the said [part of the building] [room] for any purpose other than the purpose approved by the Council [which was specified in the closing order];

And Whereas the Council are satisfied that the said [part of the building] [room] has been rendered fit for human habitation:

Now Therefore the Council hereby determine the said closing order.

Dated this day of , 19 .
(To be sealed with the common seal of the Local Authority and signed by their Clerk.

DIRECTIONS FOR FILLING UP THIS FORM.

- ¹ Description of the Local Authority.
- ² Such description of the building as may be sufficient for identification.
- ³ Such description of the part of the building or room as may be sufficient for identification.

FORM No. 12.

Section 12.

NOTICE OF REFUSAL TO DETERMINE A CLOSING ORDER IN RESPECT OF PART OF A BUILDING.

Housing Act, 1936.

To ¹
the part of the building ²
comprising ³

[owner] [mortgagee] of

Take Notice that the ⁴
having considered your application to them to determine the closing order made by them in pursuance of section 12 of the Housing Act, 1936, on the day of , 19 , in respect of the above-mentioned [part of the said building] [underground room] and not being satisfied that the said [part of the said building] [room] has been rendered fit for human habitation, have this day refused to determine the said closing order.

Dated this

day of

, 19 .

Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

- ¹ Name and address of owner or mortgagee.
- ² Such description of the building as may be sufficient for identification.
- ³ Such description of the part of the building as may be sufficient for identification.
- ⁴ Description of the Local Authority.

NOTE.

Section 12 of the Act provides that a local authority shall determine a closing order on being satisfied that the part of the building or the room to which it relates has been rendered fit for human habitation.

Section 15 of the Act provides that a person aggrieved by a refusal to determine a closing order may, within 21 days after the refusal, appeal to the County Court within the jurisdiction of which the premises to which the refusal relates are situate.

The County Court Rules provide that an appeal shall be brought by giving notice of the appeal to the local authority and at the same time requesting the Registrar of the County Court having jurisdiction in the matter to enter the appeal.

The County Court Rules further provide that the notice to the local authority and the request to the Registrar for entry of the appeal shall, so far as circumstances permit, be in accordance with the forms prescribed by the rules.

FORM No. 13.

Section 26.

CLEARANCE ORDER.

Housing Act, 1936.

Whereas pursuant to section 25 of the Housing Act, 1936, the ¹
(hereinafter referred to as "the Council") being satisfied as respects an area in their district—

- (1) that the houses in that area are by reason of disrepair or sanitary defects unfit for human habitation, or are by reason of their bad arrangement, or the narrowness or bad arrangement of the streets, dangerous or injurious to the health of the inhabitants of the area, [and that the other buildings in the area are for the like reason dangerous or injurious to the health of the said inhabitants]; and
- (2) that the most satisfactory method of dealing with the conditions in the area is the demolition of all the buildings in the area;

have caused that area to be defined on a map in such manner as to exclude from the area any building which is not unfit for human habitation or dangerous or injurious to health;

And Whereas the Council have satisfied themselves that in so far as suitable accommodation available for persons of the working classes who will be displaced by the clearance of the area does not already exist, the Council can provide, or secure the provision of, such accommodation in accordance with the requirements of the Act, and that the resources of the Council are sufficient for the purpose of carrying into effect the resolution next hereinafter recited ;

And Whereas by a resolution passed on the
day of _____, the Council declared the area so defined to be a clearance
area ;

And Whereas by a resolution passed on the
day of _____ 19____, the Council determined to proceed to secure the
clearance of the area by ordering the demolition of the buildings hereinafter referred
to :

Now Therefore the Council in pursuance of their powers under section 26 of the
Housing Act, 1936, hereby order—

1.—(1) That the buildings specified in the schedule hereto, being the buildings
which are delineated and shown coloured pink on a map marked ²
and sealed with the common seal of the Council and deposited at the offices of the
Council, shall be demolished ;

(2) that for the purposes of demolition each of the said buildings shall be vacated
on or before the expiration of the period specified in the sixth column of the said
schedule opposite to the number and description of the said building.

2. This order may be cited as the ³
Order, 19____. Clearance

Schedule.

Reference numbers on map.	Description and situation of the buildings.	Owners or reputed owners.	Lessees or reputed lessees.	Occupiers (except tenants for a month or less period than a month).	Period from the date when the order becomes operative * within which the building is to be vacated.
(1)	(2)	(3)	(4)	(5)	(6)

(L.S.)

Given under the seal of the ¹
this _____

day of _____, 19____.
Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

¹ Description of the Local Authority.

² The map should be identified by a heading in the terms of the short title of the
order.

³ Here insert a suitable short title.

* The Second Schedule of the Act provides that when a clearance order has been confirmed by the Minister of Health it shall become operative at the expiration of six weeks from the date on which notice of its confirmation is published in accordance with the provisions of the Act, but if proceedings in the High Court are instituted within that period by an aggrieved person desirous of questioning the validity of the order, the court may, if satisfied that the order is not within the powers of the Act or that the interests of the applicant have been substantially prejudiced by any requirement of the Act not having been complied with quash the order either generally or in so far as it affects any property of the applicant.

FORM No. 14.

Para. 3 (b)
of Third
Schedule.

NOTICE TO OWNERS, MORTGAGEES, LESSEES AND OCCUPIERS OF THE MAKING
OF A CLEARANCE ORDER.

Housing Act, 1936.

To ¹
Take Notice that the ² in pursuance of their
powers under section 26 of the Housing Act, 1936, on the
day of , 19 , made a clearance order which is about to be sub-
mitted to the Minister of Health for confirmation, ordering the demolition of the
buildings described in the schedule hereunder.

Copies of the order and of the map referred to therein and a map of the clearance
area have been deposited at and may be seen at all reasonable hours.

The buildings included in the area to which the order relates in which you are
interested as { owner
mortgagee } are ³
lessee
occupier

and the order requires that for the purpose of demolition these buildings shall be
vacated within ⁴ after the order becomes operative.

Any objection to the order must be made in writing, stating the grounds of your
objection and addressed to the Minister of Health, Whitehall, London, S.W., before
the ⁵ day of , 19 .

The Act provides that if no objection is duly made by any of the persons upon
whom notices are required to be served, or if all objections are withdrawn, the Min-
ister may, if he thinks fit, confirm the order with or without modification; but in
any other case he shall, before confirming the order, cause a public local inquiry to
be held and shall consider any objection not withdrawn and the report of the person
who held the inquiry, and may then confirm the order either with or without modi-
fication.

The Act also provides that when a clearance order has become operative, the
owner or owners of any building to which the order applies shall demolish that
building before the expiration of six weeks from the date on which the building is
required by the order to be vacated or, if it is not vacated until after that date,
before the expiration of six weeks from the date on which it is vacated or, in either
case, before the expiration of such longer period as in the circumstances the local
authority may deem reasonable.

The Act also provides that when a clearance order has been confirmed by the
Minister of Health it shall become operative at the expiration of six weeks from the
date on which notice of its confirmation is published in accordance with the provisions
of the Act, but if proceedings in the High Court are instituted within that period by
an aggrieved person desirous of questioning the validity of the order, the court may,
if satisfied that the order is not within the powers of the Act or that the interests of
the applicant have been substantially prejudiced by any requirement of the Act not
having been complied with, quash the order either generally or in so far as it affects
any property of the applicant.

Schedule.

(Insert description of each of the buildings to which the order relates either as
set out in the order or in such other manner as may be sufficient for the purpose of
identification.)

Dated this day of , 19 .

Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

¹ Insert name and address.

² Description of the Local Authority.

³ Description of buildings in respect of which the notice is served.

⁴ Insert period specified in clearance order.

⁵ Not less than fourteen days from the date of service of the notice should be
allowed.

FORM No. 15.

ADVERTISEMENT OF THE MAKING OF A CLEARANCE ORDER.

Housing Act, 1936.

Para. 3 (a) of
Third Schedule.

¹ Order.

Notice is hereby given that the ² in pursuance of their powers under section 26 of the Housing Act, 1936, on the day of , 19 , made a clearance order which is about to be submitted for confirmation by the Minister of Health ordering the demolition of the buildings described in the schedule hereunder and their vacation within the periods respectively specified in the order.

Copies of the said order and of the map referred to therein and a map of the clearance area have been deposited at and may be seen at all reasonable hours.

Schedule.

(Insert description of each of the buildings to which the order relates either as set out in the order or in such other manner as may be sufficient for the purpose of identification.)

Dated this

day of , 19 .

Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

¹ Here insert short title of order.

² Description of the Local Authority.

FORM No. 16.

ADVERTISEMENT AND PERSONAL NOTICE OF CLEARANCE ORDER CONFIRMED BY THE MINISTER OF HEALTH.

Second
Schedule.

Housing Act, 1936.

¹ Order.

To *

Take Notice *

Notice is hereby given that the Minister of Health, in pursuance of the power vested in him by the Housing Act, 1936, on the day of , 19 , confirmed [with modifications] a clearance order submitted to him by ² , ordering the demolition of the buildings described in the schedule hereunder and their vacation within the periods respectively specified in the order.

Copies of the confirmed order and of the map referred to therein and a map of the clearance area have been deposited at and may be seen at all reasonable hours.

The order will become operative at the expiration of six weeks from the date of publication of this notice, but if proceedings in the High Court are instituted within that period by an aggrieved person desirous of questioning the validity of the order, the court may, if satisfied that the order is not within the powers of the Act or that the interests of the applicant have been substantially prejudiced by any requirement of the Act not having been complied with, quash the order either generally or in so far as it affects any property of the applicant.

³ [Demolition of any building comprised in the confirmed order shall be deferred if the Council, at any time before the clearance order becomes operative, give notice to the owners concerned that they intend to cleanse that building from vermin after it is vacated and before it is demolished.]

Schedule.

(Insert description of each of the buildings to which the confirmed order relates either as set out in the order or in such other manner as may be sufficient for the purpose of identification.)

Dated this

day of , 19 .

Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

* Delete for purpose of advertisement. For use as personal notice insert at head of form the name and address of the person to whom the notice is directed.

¹ Here insert short title of order.

² Description of the Local Authority.

³ This paragraph may be omitted if the Council do not intend to cleanse any building comprised in the order.

FORM No. 17.

Section 155.

NOTICE TO OCCUPIER TO QUIT BUILDING AFTER CLEARANCE ORDER HAS BECOME OPERATIVE.

*Housing Act, 1936.*To¹the occupier of the building²

Take Notice :—

That by the³

Clearance Order made by the

⁴ in pursuance of their powers under section 26 of the Housing Act, 1936, and confirmed by the Minister of Health on the day of , 19 , it was ordered that the above-mentioned building be demolished and for the purposes of demolition be vacated within from the date when the order should become operative.

And that the said clearance order became operative on the day of , 19 .

And that in pursuance of section 155 of the Housing Act, 1936, you are required to quit the said building before the day of 19 .

Dated this

day of

19 .

Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

¹ Name of occupier.² Description of building in clearance order.³ Here insert short title of order.⁴ Description of the Local Authority.

NOTE.

Section 155 (1) of the Act provides :—

Where a clearance order has become operative, the local authority shall serve on the occupier of any building or any part of any building to which the order relates a notice stating the effect of the order and specifying the date by which the order requires the building to be vacated and requiring him to quit the building before the said date or before the expiration of twenty-eight days from the service of the notice, whichever may be the later; and if at any time after the date on which the notice requires the building to be vacated any person is in occupation of the building, or of any part thereof, the authority or any owner of the building may make complaint to a court of summary jurisdiction and thereupon the court shall by their warrant in the form set out in the Schedule to the Small Tenements Recovery Act, 1838, or in a form to the like effect, order vacant possession of the building, or of the part thereof, to be given to the complainant within such period not being less than two weeks nor more than four weeks as the court may determine.

Section 155 (3) of the Act provides—

Any person who, knowing that a clearance order has become operative and applies to any building, enters into occupation of that building, or of any part thereof, after the date by which the order requires that building to be vacated, or permits any other person to enter into such occupation after that date, shall be liable on summary conviction to a fine not exceeding twenty pounds and to a further fine of five pounds for every day, or part of a day, on which the occupation continues after conviction.

FORM No. 22.

Section 29 (1).

COMPULSORY PURCHASE ORDER IN RESPECT OF LAND COMPRISED IN A CLEARANCE AREA AND LAND SURROUNDED BY OR ADJOINING THE AREA.

Housing Act, 1936.

Whereas pursuant to section 25 of the Housing Act, 1936, the¹ (hereinafter referred to as "the Council") being satisfied as respects an area in their district—

(1) that the dwelling-houses in that area are by reason of disrepair or sanitary defects unfit for human habitation, or are by reason of their bad arrange-

ment, or the narrowness or bad arrangement of the streets, dangerous or injurious to the health of the inhabitants of the area ² [and that the other buildings in the area are for the like reason dangerous or injurious to the health of the said inhabitants]; and

- (2) that the most satisfactory method of dealing with the conditions in the area is the demolition of all the buildings in the area ;

have caused that area to be defined on a map in such manner as to exclude from the area any building which is not unfit for human habitation or dangerous or injurious to health ;

And Whereas the Council have satisfied themselves that in so far as suitable accommodation available for persons of the working classes who will be displaced by the clearance of the area does not already exist the Council can provide, or secure the provision of, such accommodation in accordance with the requirements of the Act, and that the resources of the Council are sufficient for the purpose of carrying into effect the resolution next hereinafter recited ;

And Whereas by a resolution passed on the _____ day of _____, 19____, the Council declared the area so defined to be a clearance area ;

And Whereas by a resolution passed on the _____ day of _____, 19____, the Council determined to proceed to secure the clearance of the area by purchasing the land hereinafter mentioned comprised in the area and themselves undertaking or otherwise securing the demolition of the buildings thereon ;

² And Whereas in pursuance of their powers under section 27 of the Act by a resolution passed on the _____ day of _____, 19____, the Council determined to purchase certain other land hereinafter mentioned as ² [being land surrounded by the clearance area the acquisition of which is reasonably necessary for the purpose of securing a cleared area of convenient shape and dimensions] or ² [being land adjoining the said clearance area the acquisition of which is reasonably necessary for the satisfactory development or user of the cleared area] :

Now Therefore the Council in pursuance of their powers under section 29 of the Housing Act, 1936, hereby make the following order—

1. Subject to the provisions of this order the Council are hereby authorised to purchase compulsorily for the purposes of the provisions of Part III of the Housing Act, 1936, relating to clearance areas, the lands described in the schedule hereto.

2.—(a) The lands specified in Part I of the schedule and shown coloured pink ² [and pink hatched yellow] on a map marked ² _____ and sealed with the common seal of the Council and deposited at the offices of the Council, are lands in the area declared to be a clearance area by the said resolution of the Council dated the _____ day of _____, 19____.

(b) ² The lands numbered _____ in Part I of the schedule, being the lands shown coloured pink hatched yellow on the said map, are lands included in the clearance area on the ground only that the buildings thereon, by reason of their bad arrangement in relation to other buildings or the narrowness or bad arrangement of the streets, are dangerous or injurious to the health of the inhabitants of the area.

(c) ² The lands specified in Part II of the schedule and coloured grey on the said map are lands outside the clearance area.

3. Subject to any necessary adaptations the provisions of—

(a) the Lands Clauses Acts (except sections 127 to 132 of the Lands Clauses Consolidation Act, 1845) ;

(b) the Acquisition of Land (Assessment of Compensation) Act, 1919 ; and

(c) section 77 of the Railways Clauses Consolidation Act, 1845, and sections 78 to 85 of that Act as originally enacted and not as amended for certain purposes by section 15 of the Mines (Working Facilities and Support) Act, 1923,

as modified by the provisions of the First Schedule to the Housing Act, 1936, applicable to compulsory purchase orders made under section 29 of the Act are hereby incorporated in this order and the provisions of those Acts shall apply accordingly.

4.⁴ The sums agreed upon or awarded for the purchase of any land comprised in this order which is glebe land or other land belonging to an ecclesiastical benefice or to be paid by way of compensation for the damage to be sustained by the owner by reason of severance or injury affecting any such land, shall not be paid as directed by the Lands Clauses Acts, but shall be paid to the Ecclesiastical Commissioners to be applied by them as money paid to them upon a sale, under the provisions of the Ecclesiastical Leasing Acts of land belonging to a benefice.

5. This order may be cited as the ⁵

Order, 19____.

PART I.

Reference numbers and colouring on map.	Description and situation of the lands.	Owners or reputed owners.	Lessees or reputed lessees.	Occupiers (except tenants for a month or less than a month).
		<p>PART II²</p> <p><i>Lands outside the clearance area.</i></p>		

Given under the seal of the _____ this
day of _____ 19__.

DIRECTIONS FOR FILLING UP THIS FORM.

³ The map should be identified by a heading in the terms of the short title of this order.

⁵ Here insert suitable short title.

Para. 3 (a) of
First Schedule.

ADVERTISEMENT OF COMPULSORY PURCHASE ORDER IN RESPECT OF LAND COMPRISED
IN A CLEARANCE AREA AND LAND SURROUNDED BY OR ADJOINING THE AREA.

Notice is hereby given that the 1

in pursuance of their powers under section 29 of the Housing Act, 1936, on the day of , 19 , made an order which is about to be submitted for confirmation by the Minister of Health authorising them to purchase compulsorily the lands described in the schedule hereto being lands in an area declared to be a clearance area by a resolution of the ¹ dated the day of 19 ² [and also lands surrounded by or adjoining the said area].

Copies of the said order and of the map referred to therein and of the map of the clearance area have been deposited at _____ and may be seen at all reasonable hours.

² [Reference to the order and maps will show

- (a) what buildings, if any, to be purchased compulsorily are included in the clearance area, on the ground only, that by reason of their bad arrangement in relation to other buildings, or the narrowness or bad arrangement of the streets, they are dangerous or injurious to the health of the inhabitants of the area ;
- (b) what parts of the land to be purchased compulsorily are outside the clearance area.]

Schedule.

(Insert description of the lands comprised in the order either as set out in the order or in such other manner as may be sufficient for the purposes of identification.)

Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

¹ Description of the Local Authority.

² Strike out where inapplicable.

FORM No. 24.

NOTICE TO OWNERS, MORTGAGEES, LESSEES AND OCCUPIERS OF THE MAKING OF A COMPULSORY PURCHASE ORDER IN RESPECT OF LAND COMPRISED IN A CLEARANCE AREA AND LAND SURROUNDED BY OR ADJOINING THE AREA.

Paras. 3 (b) and 8 (b) of First Schedule.

Housing Act, 1936.

To ¹ { Owner
Mortgagee
Lessee
Occupier

Of ²

Take Notice that the³ (hereinafter referred to as "the Council") in pursuance of their powers under section 29 of the Housing Act, 1936, on the day of 19 , made an order which is about to be submitted for confirmation by the Minister of Health authorising them to purchase compulsorily the lands described in the schedule hereto.

The lands included in the order are

(1) lands in an area declared to be a clearance area by a resolution of the Council dated the day of 19 , which the Council have determined to purchase for securing the clearance thereof by themselves undertaking or otherwise securing the demolition of the buildings thereon and

(2) * lands which the Council in pursuance of their powers under section 27 of the Housing Act, 1936, have determined to purchase as being [lands surrounded by the clearance area the acquisition of which is reasonably necessary for the purpose of securing a cleared area of convenient shape and dimensions] or [lands adjoining the clearance area the acquisition of which is reasonably necessary for the satisfactory development or user of the cleared area].

Copies of the order and of the map referred to therein and a map of the clearance area have been deposited at and may be seen at all reasonable hours.

Reference to the order and maps will show :

- (a) * what parts of the land to be acquired compulsorily are outside the clearance area;
- (b) * what buildings, if any, to be purchased compulsorily are included in the clearance area, on the ground only, that by reason of their bad arrangement in relation to other buildings, or the narrowness or bad arrangement of the streets, they are dangerous or injurious to the health of the inhabitants of the area.

Any objection to this order must be made in writing stating the grounds of your objection and addressed to the Minister of Health, Whitehall, London, S.W. 1, before the day of 19 .

The Act provides that if no objection is duly made by any of the persons upon whom notices are required to be served, or if all objections so made are withdrawn, or if the Minister is satisfied that every objection duly made relates exclusively to matters which can be dealt with by the arbitrator by whom the compensation is to be assessed, the Minister may if he thinks fit confirm the order with or without modification, but in any other case he shall before confirming the order cause a public local inquiry to be held and shall consider any objection not withdrawn and the report of the person who held the inquiry and may then confirm the order either with or without modification.

The following paragraphs, with any necessary adaptations, to be inserted in notices to owners, etc., of land comprised in the clearance area.

As the lands in which you are interested are comprised in the clearance area, the

compensation which will be payable for the land, including the buildings thereon, will, if the order is confirmed by the Minister, be assessed as follows—

- (a) in the case of lands included in the clearance area on the ground only that the buildings thereon are, by reason of their bad arrangement in relation to other buildings, or the narrowness or bad arrangement of the streets, dangerous or injurious to the health of the inhabitants of the area, in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919, subject to the rules specified in the Fourth Schedule to the Housing Act, 1936;
- (b) in the case of other lands in the clearance area, the compensation will be the value, at the time the valuation is made, of the land as a site cleared of buildings and available for development in accordance with the requirements of the building byelaws for the time being in force in the district, assessed in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919.

Any local inquiry directed by the Minister of Health in connection with this order will deal with the question whether the land is properly included in the clearance area.

● If the Minister is of opinion that land included by a local authority in a clearance area ought not to have been so included, he is required to modify the order so as to exclude that land for all purposes from the clearance area, but if he is of opinion that the land may properly be purchased by the local authority under section 27 of the Housing Act, 1936, as being land surrounded by the clearance area the acquisition of which is reasonably necessary for the purpose of securing a cleared area of convenient shape and dimensions, or as being land adjoining the clearance area the acquisition of which is reasonably necessary for the satisfactory development or user of the cleared area, he is required further to modify the order so as to authorise the authority to purchase the land under the said section 27 and not as being land comprised in the clearance area. The compensation payable for land so purchased is required to be assessed in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919, subject to the rules specified in the Fourth Schedule to the Housing Act, 1936.

The following paragraph to be inserted in notices to owners, etc., of land not comprised in the clearance area.

As the lands in which you are interested are not comprised in the clearance area, compensation will, if the order is confirmed by the Minister, be assessed in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919, subject to the rules specified in the Fourth Schedule to the Housing Act, 1936.

Schedule.

(Insert description of the lands comprised in the order either as set out in the order or in such other manner as may be sufficient for the purpose of identification, indicating which buildings, if any, are included in the order by reason only of bad arrangement.)

Dated this _____ day of _____, 19 ____
Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

- ¹ Name and address.
- ² Description of property in respect of which the notice is served.
- ³ Description of the Local Authority.
- * Strike out if inapplicable.
- † Not less than fourteen days from the service of the notice should be allowed.

FORM No. 25.

ADVERTISEMENT AND PERSONAL NOTICE OF COMPULSORY PURCHASE ORDER CONFIRMED BY THE MINISTER OF HEALTH IN RESPECT OF LAND COMPRISED IN A CLEARANCE AREA AND LAND SURROUNDED BY OR ADJOINING THE AREA.

Housing Act, 1936.

To *

¹ Order.

Take Notice *

Notice is hereby given _____ that the Minister of Health in pursuance of the powers vested in him by the Housing Act, 1936, on the _____ day of _____, 19 ____, confirmed [with modifications] an order submitted to him by ² _____ authorising them to purchase compulsorily under section 29 of the said Act, the lands described in the schedule hereto

which lands are lands in an area declared to be a clearance area by a resolution of the Council dated the _____ day of _____, 19

³ [and also lands surrounded by $\frac{\text{and}}{\text{or}}$ adjoining the said clearance area].

Copies of the confirmed order and of the map referred to therein and a map of the said clearance area have been deposited at _____ and may be seen at all reasonable hours.

³ [Reference to the order and maps will show (a) what parts of the land authorised to be purchased compulsorily are outside the clearance area and (b) what buildings, if any, to be purchased compulsorily are included in the clearance area, on the ground only, that by reason of their bad arrangement in relation to other buildings, or the narrowness or bad arrangement of the streets, they are dangerous or injurious to the health of the inhabitants of the area.]

The order will become operative at the expiration of six weeks from the date of publication of this notice, but if proceedings in the High Court are instituted within that period by an aggrieved person desirous of questioning the validity of the order, the court may, if satisfied that the order is not within the powers of the Act or that the interests of the applicant have been substantially prejudiced by any requirement of the Act not having been complied with, quash the order either generally or in so far as it affects any property of the applicant.

Schedule.

(Insert description of the lands comprised in the confirmed order either as set out in the order or in such other manner as may be sufficient for the purpose of identification, and in the personal notices indicate which buildings, if any, are included in the order by reason only of bad arrangement.)

Dated this _____ day of _____, 19 .

Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

* Delete for purpose of advertisement. For use as personal notice insert at head of form the name and address of the person to whom the notice is directed.

¹ Here insert short title of order.

² Description of the Local Authority.

³ Strike out where inapplicable.

FORM No. 26.

COMPULSORY PURCHASE ORDER IN RESPECT OF LAND SURROUNDED BY OR ADJOINING A CLEARANCE AREA.

Section 27.

Housing Act, 1936.

Whereas pursuant to section 25 of the Housing Act, 1936, the ¹ (hereinafter referred to as "the Council") after complying with the requirements of the said section by a resolution passed on the _____ day of _____, 19 , declared a certain area in their district to be a clearance area :

And Whereas the Council, by a resolution passed on the _____ day of _____, 19 , determined to purchase $\frac{\text{the}}{\text{certain}}$ land comprised in the said clearance area * [and they were authorised to purchase the said land compulsorily by the ² _____ Order confirmed by the Minister of Health and dated the _____ day of _____, 19] :

And Whereas by a resolution passed on the _____ day of _____, 19 , the Council determined to purchase the lands hereinafter mentioned as [being lands surrounded by the said clearance area the acquisition of which is reasonably necessary for the purpose of securing a cleared area of convenient shape and dimensions] *or* [being land adjoining the said clearance area the acquisition of which is reasonably necessary for the satisfactory development or user of the cleared area] :

Now Therefore the Council in pursuance of their powers under section 29 of the Housing Act, 1936, hereby make the following order—

1. Subject to the provisions of this order the Council are hereby authorised to

purchase compulsorily for the purposes of section 27 of the Housing Act, 1936, the lands described in the schedule hereto which lands are shown coloured on a map marked ³ and sealed with the common seal of the Council and deposited at the offices of the Council.

2. Subject to any necessary adaptations the provisions of—

- (a) the Lands Clauses Acts (except sections 127 to 132 of the Lands Clauses Consolidation Act, 1845);
- (b) the Acquisition of Land (Assessment of Compensation) Act, 1919; and
- (c) section 77 of the Railways Clauses Consolidation Act, 1845, and sections 78 to 85 of that Act as originally enacted and not as amended for certain purposes by section 15 of the Mines (Working Facilities and Support) Act, 1923,

as modified by the provisions of the First Schedule to the Housing Act, 1936, applicable to compulsory purchase orders made under section 29 of the Act are hereby incorporated in this order and the provisions of those Acts shall apply accordingly.

3.⁴ The sums agreed upon or awarded for the purchase of any land comprised in this order which is glebe land or other land belonging to an ecclesiastical benefice or to be paid by way of compensation for the damage to be sustained by the owner by reason of severance or injury affecting any such land, shall not be paid as directed by the Lands Clauses Acts, but shall be paid to the Ecclesiastical Commissioners to be applied by them as money paid to them upon a sale, under the provisions of the Ecclesiastical Leasing Acts of land belonging to a benefice.

4. This order may be cited as the ⁵

Order, 19

Schedule.

Reference numbers on map.	Quantity, description and situation of the lands.	Owners or reputed owners.	Lessees or reputed lessees.	Occupiers (except tenants for a month or less than a month).

(L.S.)

Given under the seal of the ¹
day of , 19 .

this

Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

¹ Description of the Local Authority.

² Here insert short title of that order.

³ The map should be identified by a heading in the terms of the short title of this order.

⁴ Insert this clause where the lands in the order include glebe land or other land belonging to an ecclesiastical benefice.

⁵ Here insert a suitable short title.

* This recital will require alteration if the lands were purchased by agreement.

FORM No. 27.

ADVERTISEMENT OF A COMPULSORY PURCHASE ORDER IN RESPECT OF LAND SURROUNDED BY OR ADJOINING A CLEARANCE AREA.

Para. 3 (a) of
First Schedule.

Housing Act, 1936.

Notice is hereby given that the ¹
in pursuance of their powers under section 29 of the Housing Act, 1936, on the
day of , 19 , made an order which is about to
be submitted for confirmation by the Minister of Health authorising them to purchase

compulsorily the lands described in the schedule hereto as being [lands surrounded by a clearance area the acquisition of which is reasonably necessary for securing a cleared area of convenient shape and dimensions] *or* [lands adjoining a clearance area the acquisition of which is reasonably necessary for the satisfactory development or user of the cleared area].

Copies of the said order and of the map referred to therein and a map of the clearance area have been deposited at _____ and may be seen at all reasonable hours.

Schedule.

(Here insert description of the lands comprised in the order.)

Dated this _____

day of _____

, 19 ____.

Signature of the Clerk of the Local Authority.

¹ Description of the Local Authority.

FORM No. 28.

NOTICE TO OWNERS, MORTGAGEES, LESSEES AND OCCUPIERS OF THE MAKING OF A
COMPULSORY PURCHASE ORDER IN RESPECT OF LANDS SURROUNDED BY OR
ADJOINING A CLEARANCE AREA.

Paras. 3 (b) &
8 (b) of First
Schedule.

Housing Act, 1936.

To ¹

{ Owner
Mortgagee
Lessee
Occupier

Of ²

Take Notice that the ³ _____ in
pursuance of their powers under Section 29 of the Housing Act, 1936, on the
_____ day of _____, 19 __, made an order which is

about to be submitted for confirmation by the Minister of Health authorising them to purchase compulsorily the lands described in the schedule hereto.

The lands included in this order are lands which the Council in pursuance of their powers under section 27 of the Housing Act, 1936, have determined to purchase as being [land surrounded by an area declared to be a clearance area by a resolution of the Council dated the _____ day of _____, 19 __, the acquisition of which is reasonably necessary for the purpose of securing a cleared area of convenient shape and dimensions] *or* [land adjoining an area declared to be a clearance area by a resolution of the Council dated the _____ day of _____, 19 __, the acquisition of which is reasonably necessary for the satisfactory development or user of the cleared area].

Copies of the said order and of the map referred to therein and a map of the clearance area have been deposited at _____ and may be seen at all reasonable hours.

Any objection to this order must be made in writing stating the grounds of your objection and addressed to the Minister of Health, Whitehall, London, S.W. 1, before the * _____ day of _____, 19 ____.

The Act provides that if no objection is duly made by any of the persons upon whom notices are required to be served, or if all objections so made are withdrawn, or the Minister is satisfied that every objection duly made relates exclusively to matters that can be dealt with by the arbitrator by whom the compensation is to be assessed the Minister may, if he thinks fit, confirm the order with or without modification, but in any other case he shall, before confirming the order, cause a public local inquiry to be held, and shall consider any objection not withdrawn and the report of the person who held the inquiry, and may then confirm the order either with or without modification.

Schedule.

(Here insert description of the lands comprised in the order.)

Dated this _____

day of _____

, 19 ____.

Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

¹ Name and address.

² Description of property in respect of which the notice is served.

³ Description of the Local Authority.

* Not less than fourteen days from the service of the notice should be allowed.

FORM No. 29.

Second
Schedule.

ADVERTISEMENT AND PERSONAL NOTICE OF COMPULSORY PURCHASE ORDER CONFIRMED BY THE MINISTER OF HEALTH IN RESPECT OF LAND SURROUNDED BY OR ADJOINING A CLEARANCE AREA.

*Housing Act, 1936.*¹ ORDER.

To *
Take Notice * _____ that the Minister of Health in pursuance of the powers
Notice is hereby given _____ day of
vested in him by the Housing Act, 1936, on the _____, 19____, confirmed [with modifications] an order submitted to him by ²
authorising them to purchase compulsorily under section 29 of the said Act the lands described in the schedule hereto [as being lands surrounded by a clearance area the acquisition of which is reasonably necessary for the purpose of securing a cleared area of convenient shape and dimensions] or [as being lands adjoining a clearance area the acquisition of which is reasonably necessary for the satisfactory development or user of the cleared area].

Copies of the confirmed order and of the map referred to therein and a map of the said clearance area have been deposited at _____ and may be seen at all reasonable hours.

The order will become operative at the expiration of six weeks from the date of publication of this notice, but if proceedings in the High Court are instituted within that period by an aggrieved person desirous of questioning the validity of the order, the court may, if satisfied that the order is not within the powers of the Act or that the interests of the applicant have been substantially prejudiced by any requirement of the Act not having been complied with, quash the order either generally or in so far as it affects any property of the applicant.

Schedule.

(Here insert description of the lands comprised in the confirmed order.)

Dated this _____ day of _____, 19____
Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

* Delete for purpose of advertisement. For use as personal notice insert at head of form the name and address of the person to whom the notice is directed.

¹ Here insert short title of order

² Description of the Local Authority.

FORM No. 30.

Section 32.

COMPULSORY PURCHASE ORDER IN RESPECT OF LAND WHICH HAS BEEN CLEARED OF BUILDINGS IN ACCORDANCE WITH A CLEARANCE ORDER.

Housing Act, 1936.

Whereas the ¹
(hereinafter referred to as "the Council") in pursuance of their powers under section 26 of the Housing Act, 1936, on the _____ day of _____, 19____, made a clearance order ordering the demolition of the buildings therein described, being the buildings in a certain area in their district known as the
Clearance Area;

And Whereas by the ² _____ Housing Confirmation Order, 19____, the said clearance order was confirmed [with certain modifications] by the Minister of Health;

And Whereas by virtue of the provisions of the second Schedule of the said Act, the said clearance order became operative on the _____ day of _____, 19____;

And Whereas by a resolution passed on the _____ day of _____, 19____, the Council determined to purchase the lands hereinafter described, as being lands which have been cleared of buildings in accordance with the said clearance order and which at the date of the passing of the said resolution had not been, or were not in process of being, used for building purposes, or otherwise developed by the owner thereof in the manner stated in the said section :

Now Therefore the Council in pursuance of their powers under section 32 of the Housing Act, 1936, hereby make the following order—

1. Subject to the provisions of this order the Council are hereby authorised to purchase compulsorily for the purposes of section 32 of the Housing Act, 1936, the lands described in the schedule hereto which lands are shown coloured

on a map marked ³ and sealed with the common seal of the Council and deposited at the offices of the Council.

2. Subject to any necessary adaptations the provisions of—

(a) the Lands Clauses Acts (except sections 127 to 132 of the Lands Clauses Consolidation Act, 1845);

(b) the Acquisition of Land (Assessment of Compensation) Act, 1919; and

(c) section 77 of the Railways Clauses Consolidation Act, 1845, and sections 78 to 85 of that Act as originally enacted and not as amended for certain purposes by section 15 of the Mines (Working Facilities and Support) Act, 1923,

as modified by the provisions of the First Schedule to the Housing Act, 1936, applicable to compulsory purchase orders made under section 32 of the Act, are hereby incorporated in this order and the provisions of those Acts shall apply accordingly.

3.⁴ The sums agreed upon or awarded for the purchase of any land comprised in this order which is glebe land or other land belonging to an ecclesiastical benefice or to be paid by way of compensation for the damage to be sustained by the owner by reason of severance or injury affecting any such land, shall not be paid as directed by the Lands Clauses Acts but shall be paid to the Ecclesiastical Commissioners to be applied by them as money paid to them upon a sale, under the provisions of the Ecclesiastical Leasing Acts of land belonging to a benefice.

4. This order may be cited as the ⁵

Order, 19 .

Schedule.

Reference numbers on map.	Quantity, description and situation of the lands.	Owners or reputed owners.	Lessees or reputed lessees.	Occupiers (except tenants for a month or less than a month).

(L.S.)

Given under the seal of the ¹
day of , 19 .

this

Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

¹ Description of the Local Authority.

² Here insert short title of the order referred to.

³ The map should be identified by a heading in the terms of the short title of this order.

⁴ Insert this clause where the lands in the order include glebe land or other land belonging to an ecclesiastical benefice.

⁵ Here insert a suitable short title.

FORM No. 31.

ADVERTISEMENT OF A COMPULSORY PURCHASE ORDER IN RESPECT OF LAND WHICH HAS BEEN CLEARED OF BUILDINGS IN ACCORDANCE WITH A CLEARANCE ORDER.

Para. 3 (a) of First Schedule.

Housing Act, 1936.

Notice is hereby given that the ¹
in pursuance of their powers under section 32 of the Housing Act, 1936, on the
day of , 19 , made an order which is about to be sub-
mitted for confirmation by the Minister of Health, authorising them to purchase

compulsorily the lands described in the schedule hereto, being lands which the Council by a resolution dated the day of , 19 , determined to purchase as being lands which have been cleared of buildings in accordance with the Clearance Order,² 19 , and which at the date of the passing of the said resolution had not been or were not in process of being, used for building purposes or otherwise developed by the owners thereof in the manner stated in the said section 32.

Copies of the said order and of the map referred to therein have been deposited at and may be seen at all reasonable hours.

Schedule.

(Here insert description of the lands comprised in the order.)

Dated this day of , 19 .
Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

¹ Description of the Local Authority.

² Insert short title of the order referred to.

FORM No. 32.

Paras. 3 (b) and 8 (b) of First Schedule. NOTICE TO OWNERS, MORTGAGEES, LESSEES AND OCCUPIERS OF THE MAKING OF A COMPULSORY PURCHASE ORDER IN RESPECT OF LAND WHICH HAS BEEN CLEARED OF BUILDINGS IN ACCORDANCE WITH A CLEARANCE ORDER.

Housing Act, 1936.

To ¹ { Owner
Mortgagee
Lessee
Occupier

Of ² Take Notice that the ³ in pursuance of their powers under section 32 of the Housing Act, 1936, on the day of , 19 , made an order which is about to be submitted for confirmation by the Minister of Health authorising them to purchase compulsorily the lands described in the schedule hereto.

The lands included in the order are lands which the Council by a resolution dated the day of , 19 , determined to purchase as being lands which have been cleared of buildings in accordance with the Clearance Order, 19 ,⁴ and which at the date of the passing of the said resolution had not been, or were not in process of being, used for building purposes or otherwise developed by the owner thereof in the manner stated in the said section 32.

Copies of the said order and of the map referred to therein have been deposited at and may be seen at all reasonable hours.

Any objection to this order must be made in writing stating the grounds of your objection and addressed to the Minister of Health, Whitehall, London, S.W. 1, before the * day of , 19 .

The Act provides that if no objection is duly made by any of the persons upon whom notices are required to be served, or if all objections so made are withdrawn, or if the Minister is satisfied that every objection duly made relates exclusively to matters which can be dealt with by the arbitrator by whom the compensation is to be assessed, the Minister may if he thinks fit confirm the order with or without modification, but in any other case he shall before confirming the order cause a public local inquiry to be held and shall consider any objection not withdrawn and the report of the person who held the inquiry and may then confirm the order either with or without modification.

Schedule.

(Here insert description of the lands comprised in the order.)

Dated this day of , 19 .
Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

- ¹ Name and address.
- ² Description of property in respect of which the notice is served.
- ³ Description of the Local Authority.
- ⁴ Insert short title of order referred to.
- * Not less than fourteen days from the service of the notice should be allowed.

FORM No. 33.

ADVERTISEMENT AND PERSONAL NOTICE OF COMPULSORY PURCHASE ORDER CONFIRMED BY THE MINISTER OF HEALTH IN RESPECT OF LAND WHICH HAS BEEN CLEARED OF BUILDINGS IN ACCORDANCE WITH A CLEARANCE ORDER. Second Schedule.

Housing Act, 1936.

¹ ORDER.

To *

Take Notice *

Notice is hereby given that the Minister of Health in pursuance of the powers vested in him by the Housing Act, 1936, on the _____ day of 19____, confirmed [with modifications] an order submitted to him by ² _____ authorising them to purchase compulsorily under section 32 of the said Act the lands described in the schedule hereto as being lands which have been cleared of buildings in accordance with the _____ Clearance Order, 19____, and which at the date of the passing of the resolution of the Council determining to purchase the said lands, had not been, or were not in process of being, used for building purposes or otherwise developed in the manner stated in the said section.

Copies of the confirmed order and of the map referred to therein have been deposited at _____ and may be seen at all reasonable hours.

The order will become operative at the expiration of six weeks from the date of publication of this notice, but if proceedings in the High Court are instituted within that period by an aggrieved person desirous of questioning the validity of the order, the court may, if satisfied that the order is not within the powers of the Act or that the interests of the applicant have been substantially prejudiced by any requirement of the Act not having been complied with, quash the order either generally or in so far as it affects any property of the applicant.

Schedule.

(Here insert description of the lands comprised in the confirmed order.)

Dated this _____ day of _____, 19____.

Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

* Delete for purpose of advertisement. For use as personal notice insert at head of form the name and address of the person to whom the notice is directed.

¹ Here insert short title of confirmed order.

² Description of the Local Authority.

FORM No. 34.

COMPULSORY PURCHASE ORDER IN RESPECT OF LAND COMPRISED IN AN IMPROVEMENT AREA.

Section 38.

Housing Act, 1936.

Whereas the ¹ _____ (hereinafter referred to as "the Council") in pursuance of their powers under section 7 of the Housing Act, 1930, after complying with the requirements of the said section, by a resolution passed on the _____ day of _____, 19____, declared a certain area in their district to be an improvement area;

And Whereas by a resolution passed on the _____ day of _____, 19____, the Council determined to purchase the lands hereinafter described as being lands which are in the said improvement area and which it is expedient for the Council to acquire for opening out the area:

Now Therefore the Council in pursuance of their powers under section 38 of the Housing Act, 1936, hereby make the following order—

1. Subject to the provisions of this order the Council are hereby authorised to purchase compulsorily for the purposes of section 38 of the Housing Act, 1936, the lands described in the schedule hereto which lands are shown coloured

on a map marked ² and sealed with the common seal of the Council and deposited at the offices of the Council.

2. Subject to any necessary adaptations the provisions of—

(a) the Lands Clauses Acts (except sections 127 to 132 of the Lands Clauses Consolidation Act, 1845);

(b) the Acquisition of Land (Assessment of Compensation) Act, 1919; and

(c) section 77 of the Railways Clauses Consolidation Act, 1845, and sections 78 to 85 of that Act as originally enacted and not as amended for certain purposes by section 15 of the Mines (Working Facilities and Support) Act, 1923,

as modified by the provisions of the First Schedule to the Housing Act, 1936, applicable to compulsory purchase orders made under section 38 of the Act, are hereby incorporated in this order and the provisions of those Acts shall apply accordingly.

3.³ The sums agreed upon or awarded for the purchase of any land comprised in this order which is glebe land or other land belonging to an ecclesiastical benefice or to be paid by way of compensation for the damage to be sustained by the owner by reason of severance or injury affecting any such land, shall not be paid as directed by the Lands Clauses Acts, but shall be paid to the Ecclesiastical Commissioners to be applied by them as money paid to them upon a sale, under the provisions of the Ecclesiastical Leasing Acts, of land belonging to a benefice.

4. This order may be cited as the ⁴

Order, 19 .

Schedule.

Reference numbers on map.	Quantity, description and situation of the lands.	Owners or reputed owners.	Lessees or reputed lessees.	Occupiers (except tenants for a month or less than a month).

(L.S.)

Given under the seal of the ¹
day of , 19 .

this

Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

¹ Description of the Local Authority.

² The map should be identified by a heading in the terms of the short title of the order.

³ Insert this clause where the lands in the order include glebe land or other land belonging to an ecclesiastical benefice.

⁴ Here insert a suitable short title.

FORM No. 35.

Para. 3 (a) of
First Schedule.

ADVERTISEMENT OF A COMPULSORY PURCHASE ORDER IN RESPECT OF LAND COMPRISED IN AN IMPROVEMENT AREA.

Housing Act, 1936.

Notice is hereby given that the ¹
in pursuance of their powers under section 38 of the Housing Act, 1936, on the
day of , 19 , made an order which is about
to be submitted for confirmation by the Minister of Health authorising them to

purchase compulsorily the lands described in the schedule hereto, as being lands which are in an area declared by a resolution of the Council dated the day of , 19 , to be an improvement area under section 7 of the Housing Act, 1930, and which the Council have determined to acquire for opening out the said area.

Copies of the said order and of the map referred to therein and of the map of the improvement area have been deposited at and may be seen at all reasonable hours.

Schedule.

(Here insert description of the lands comprised in the order.)

Dated this day of , 19 .

Signature of the Clerk of the Local Authority.

¹ Description of the Local Authority.

FORM No. 36.

NOTICE TO OWNERS, MORTGAGEES, LESSEES AND OCCUPIERS OF THE MAKING OF A COMPULSORY PURCHASE ORDER IN RESPECT OF LAND COMPRISED IN AN IMPROVEMENT AREA. Paras. 3 (b) and 8 (b) of First Schedule.

Housing Act, 1936.

To ¹

{ Owner
Mortgagee
Lessee
Occupier

Of ²

Take Notice that the ³ in pursuance of their powers under section 38 of the Housing Act, 1936, on the day of , 19 , made an order which is about to be submitted for confirmation by the Minister of Health authorising them to purchase compulsorily the lands described in the schedule hereto.

The lands included in the order are lands which are in an area declared by a resolution of the Council dated the day of 19 , to be an improvement area under section 7 of the Housing Act, 1930, and which the Council have determined to purchase as being lands which it is expedient for them to acquire for opening out the area.

Copies of the said order and of the map referred to therein and a map of the improvement area have been deposited at and may be seen at all reasonable hours.

Any objection to this order must be made in writing stating the grounds of your objection and addressed to the Minister of Health, Whitehall, London, S.W. 1, before the * day of , 19 .

The Act provides that if no objection is duly made by any of the persons upon whom notices are required to be served, or if all objections so made are withdrawn, or the Minister is satisfied that every objection duly made relates exclusively to matters that can be dealt with by the arbitrator by whom the compensation is to be assessed the Minister may, if he thinks fit, confirm the order with or without modification, but in any other case he shall, before confirming the order, cause a public local inquiry to be held, and shall consider any objection not withdrawn and report of the person who held the inquiry, and may then confirm the order either with or without modification.

Schedule.

(Here insert description of the lands comprised in the order.)

Dated this day of , 19 .

Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

- ¹ Name and address.
- ² Description of property in respect of which the notice is served.
- ³ Description of the Local Authority.
- * Not less than fourteen days from the service of the notice should be allowed.

FORM No. 37.

Second.
Schedule.

ADVERTISEMENT AND PERSONAL NOTICE OF COMPULSORY PURCHASE ORDER CONFIRMED BY THE MINISTER OF HEALTH IN RESPECT OF LAND COMPRISED IN AN IMPROVEMENT AREA.

*Housing Act, 1936.*¹ Order.

To *

Take Notice *

Notice is hereby given that the Minister of Health in pursuance of the powers vested in him by the Housing Act, 1936, on the _____ day of _____, 19____, confirmed [with modifications] an order submitted to him by:² _____ authorising them to purchase compulsorily under section 38 of the said Act, the lands described in the schedule hereto as being lands which are in an area declared by a resolution of the Council dated the _____ day of _____, 19____, to be an improvement area under section 7 of the Housing Act, 1930, and which it is expedient for the Council to acquire for opening out the area.

Copies of the confirmed order and of the map referred to therein and a map of the improvement area have been deposited at _____ and may be seen at all reasonable hours.

The order will become operative at the expiration of six weeks from the date of publication of this notice, but if proceedings in the High Court are instituted within that period by an aggrieved person desirous of questioning the validity of the order, the court may, if satisfied that the order is not within the powers of the Act or that the interests of the applicant have been substantially prejudiced by any requirement of the Act not having been complied with, quash the order either generally or in so far as it affects any property of the applicant.

Schedule.

(Here insert description of the lands comprised in the confirmed order.)

Dated this _____ day of _____, 19____.

Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

* Delete for purpose of advertisement. For use as personal notice insert at head of form the name and address of the person to whom the notice is directed.

¹ Here insert short title of the confirmed order.

² Description of the Local Authority.

FORM No. 38.

Section 16.

COMPULSORY PURCHASE ORDER IN RESPECT OF A HOUSE WHICH CANNOT BE RENDERED FIT FOR HUMAN HABITATION AT A REASONABLE EXPENSE.

Housing Act, 1936.

Whereas by a notice dated the _____ day of _____, 19____, the¹ _____ (hereinafter referred to as "the Council") in pursuance of section 9 of the Housing Act, 1936, required the person having control of the house known as ² _____ to execute certain works which would in the opinion of the Council have rendered the said house fit for human habitation;

And Whereas ³ _____ being a person aggrieved by the said notice appealed against the same, and on the _____ day of _____, 19____, the

judge [court] in allowing the appeal found that the said house could not be rendered fit for human habitation at a reasonable expense;

And Whereas by a resolution passed on the _____ day of _____, 19____, the Council determined to purchase the said house:

Now Therefore the Council in pursuance of their powers under section 16 of the Housing Act, 1936, hereby make the following order:—

1. Subject to the provisions of this Order the Council are hereby authorised to purchase compulsorily for the purposes of section 16 of the Housing Act, 1936, the house described in the schedule hereto being the house shown coloured on a plan marked ⁴_____ and sealed with the common seal of the Council and deposited at the offices of the Council.

2. Subject to any necessary adaptations the provisions of—

(a) the Lands Clauses Acts (except sections 127 to 132 of the Lands Clauses Consolidation Act, 1845);

(b) the Acquisition of Land (Assessment of Compensation) Act, 1919; and

(c) section 77 of the Railways Clauses Consolidation Act, 1845, and sections 78 to 85 of that Act as originally enacted and not as amended for certain purposes by section 15 of the Mines (Working Facilities and Support) Act, 1923,

as modified by the provisions of the First Schedule to the Housing Act, 1936, applicable to compulsory purchase orders made under section 16 of the Act, are hereby incorporated in this order and the provisions of those Acts shall apply accordingly.

3.⁵ The sums agreed upon or awarded for the purchase of the property described in the schedule to this order being glebe land or other land belonging to an ecclesiastical benefice or to be paid by way of compensation for the damage to be sustained by the owner by reason of severance or injury affecting any such land, shall not be paid as directed by the Lands Clauses Acts, but shall be paid to the Ecclesiastical Commissioners to be applied by them as money paid to them upon a sale, under the provisions of the Ecclesiastical Leasing Acts, of land belonging to a benefice.

4. This order may be cited as the ⁶_____ Order, 19____.

Schedule.

(Here insert sufficient description of the house for purposes of identification stating the names of the owner, lessee and any occupier.)

(L.S.)

Given under the seal of the ¹_____ this _____ day of _____, 19____.

Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

¹ Description of the Local Authority.

² Description of the house sufficient for identification.

³ Name of person who brought the appeal.

⁴ The plan should be identified by a heading in the terms of the short title of the order.

⁵ Insert this clause where the property is glebe land or other land belonging to an ecclesiastical benefice.

⁶ Insert a suitable short title.

FORM No. 39.

ADVERTISEMENT OF A COMPULSORY PURCHASE ORDER IN RESPECT OF A HOUSE WHICH CANNOT BE RENDERED FIT FOR HUMAN HABITATION AT A REASONABLE EXPENSE.

Para. 3 (a) of First Schedule.

Housing Act, 1936.

Notice is hereby given that the ¹_____ in pursuance of their powers under section 16 of the Housing Act, 1936, on the _____ day of _____, 19____, made an order which is about to be submitted for confirmation by the Minister of Health authorising them to purchase compulsorily the dwelling-house known as ²_____.

Copies of the said order and of the plan referred to therein have been deposited at _____ and may be seen at all reasonable hours.

Dated this _____ day of _____, 19 ____.

Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

¹ Description of the Local Authority.

² Insert description of the house sufficient for identification.

FORM No. 40.

Paras. 3 (b) and
8 (b) of First
Schedule.

NOTICE OF THE MAKING OF A COMPULSORY PURCHASE ORDER IN RESPECT OF A HOUSE WHICH CANNOT BE RENDERED FIT FOR HUMAN HABITATION AT A REASONABLE EXPENSE.

Housing Act, 1936.

To¹

{ Owner
Lessee
Mortgagee
Occupier

Of ²

Take Notice :—

That the ³

having on the _____ day of _____, 19 ____, served a notice under section 9 of the Housing Act, 1936, requiring the execution of the works therein specified to the house known as ² _____, and the judge [court], in allowing an appeal against the said notice, having found that the said house could not be rendered fit for human habitation at a reasonable expense, the Council in pursuance of their powers under section 16 of the said Act on the day of _____, 19 ____, made an order, which is about to be submitted for confirmation by the Minister of Health, authorising them to purchase compulsorily the said house.

Copies of the said order and of the plan referred to therein have been deposited at _____ and may be seen at all reasonable hours.

Any objection to this order must be made in writing stating the grounds of your objection and addressed to the Minister of Health, Whitehall, London, S.W.1, before the ⁴ _____ day of _____, 19 ____.

The Act provides that if any person being an owner or mortgagee of the house undertakes to carry out to the satisfaction of the Minister and within such period as the Minister may fix, the works specified in the notice against which the appeal was brought, the Minister shall not confirm the compulsory purchase order unless that person has failed to fulfil his undertaking.

If the Council purchase the house compulsorily they are required forthwith to execute all such works as were specified in the notice against which the appeal was brought.

The Act also provides that if no objection is duly made by any of the persons upon whom notices of the order are required to be served, or if all objections so made are withdrawn, or the Minister is satisfied that every objection duly made relates exclusively to matters that can be dealt with by the arbitrator by whom the compensation is to be assessed the Minister may if he thinks fit confirm the order with or without modification, but in any other case he shall, before confirming the order, cause a public local inquiry to be held, and shall consider any objection not withdrawn and the report of the person who held the inquiry, and may then confirm the order either with or without modification.

The Act also provides that the compensation to be paid for any house purchased compulsorily under section 16 of the Act shall be the value, at the time when the valuation is made, of the site as a cleared site available for development in accordance with the requirements of the building bye-laws for the time being in force in the district and of any town planning scheme in operation in the area, and subject as aforesaid, shall be assessed in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919.

Dated this _____ day of _____, 19 ____.

Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

¹ Name and address.

² Description of property in respect of which the notice is served.

³ Description of the Local Authority.

⁴ Not less than fourteen days from the service of the notice should be allowed.

FORM No. 41.

ADVERTISEMENT AND PERSONAL NOTICE OF A COMPULSORY PURCHASE ORDER CONFIRMED BY THE MINISTER OF HEALTH IN RESPECT OF A HOUSE WHICH CANNOT BE RENDERED FIT FOR HUMAN HABITATION AT A REASONABLE EXPENSE. Second Schedule.

Housing Act, 1936.

¹ Order.

To *

Take Notice *

Notice is hereby given that the Minister of Health in pursuance of the powers vested in him by the Housing Act, 1936, on the _____ day of _____, 19____, confirmed an order submitted to him by ² _____ authorising them to purchase compulsorily under section 16 of the said Act the house known as ³ _____

Copies of the confirmed order and of the plan referred to therein have been deposited at _____ and may be seen at all reasonable hours.

The order will become operative at the expiration of six weeks from the date of publication of this notice, but if proceedings in the High Court are instituted within that period by an aggrieved person desirous of questioning the validity of the order, the court may, if satisfied that the order is not within the powers of the Act or that the interests of the applicant have been substantially prejudiced by any requirements of the Act not having been complied with, quash the order.

Dated this _____

day of _____

, 19 ____.

Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

* Delete for the purpose of advertisement. For use as personal notice insert at head of form the name and address of the person to whom the notice is directed.

¹ Here insert short title of the confirmed order.

² Description of the Local Authority.

³ Insert description of the house sufficient for identification.

FORM No. 42.

ADVERTISEMENT AND PERSONAL NOTICE OF THE PREPARATION OF A RE-DEVELOPMENT PLAN.

Section 35 (3).

Housing Act, 1936.

To *

{	Owner	}
{	Lessee	}
{	Occupier	}

 of *

Take Notice *

Notice is hereby given that the ¹ _____

in pursuance of their powers under section 35 of the Housing Act, 1936, have prepared a re-development plan, which is about to be submitted to the Minister of Health for approval, in respect of the area known as the ² _____ Re-development Area which area was declared by a resolution passed by the Council on the _____ day of _____ 19____, to be a proposed re-development area :

A copy of the said re-development plan has been deposited at _____

and may be inspected at all reasonable hours.

Any objection to the said re-development plan must be made in writing, stating the grounds of objection, and addressed to the Minister of Health, Whitehall, London, S.W. 1, before the ³ _____ day of _____, 19____.

The Act provides that if no objection is duly made by any of the persons upon whom notices are required to be served, or if all objections so made are withdrawn, the Minister of Health may, if he thinks fit, approve the plan either without modifications or with such modifications as he thinks fit (including the alteration of the defined re-development area so as to exclude land therefrom but not so as to add land thereto), but in any other case he shall, before approving the plan, cause a

public local inquiry to be held and shall consider any objection not withdrawn and the report of the person who held the inquiry, and may thereafter approve the plan with or without any such modifications as aforesaid.

Dated this

day of

19 .

Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

* Delete for purpose of advertisement. For use as personal notice insert at head of form the name and address of the person or body to whom the notice is directed, and specify the lands or property included in the plan in which such person or body is interested.

¹ Description of the Local Authority.

² Insert citation title of re-development area.

³ Here insert date 42 clear days from the date of publication and service of the notice.

(Note.—When using this form in connection with a new re-development plan in respect of the whole or any part of a re-development area the appropriate adaptations should be made.)

FORM No. 43.

Section 35 (5).

ADVERTISEMENT AND PERSONAL NOTICE OF RE-DEVELOPMENT PLAN APPROVED BY THE MINISTER OF HEALTH.

Housing Act, 1936.

¹ *Re-development Plan*

To *

Take Notice *

Notice is hereby given that the Minister of Health in pursuance of the powers vested in him by the Housing Act, 1936, on the _____ day of _____, 19____, approved [with modifications] a re-development plan prepared under section 35 of the Housing Act, 1936, and submitted to him by the ² _____ in respect of the area known as the ³ _____ Re-development Area which area was declared by the Council on the _____ day of _____, 19____, to be a proposed re-development area.

A copy of the re-development plan as approved by the Minister has been deposited at _____ and may be inspected at all reasonable hours.

The approval of the re-development plan will become operative at the expiration of six weeks from the date of publication of this notice, but if proceedings in the High Court are instituted within that period by an aggrieved person desirous of questioning the validity thereof, the court may, if satisfied that the approval of the plan is not within the powers of the Act or that the interests of the applicant have been substantially prejudiced by any requirement of the Act not having been complied with, quash the approval of the plan either generally or in so far as it affects any property of the applicant.

Dated this

day of

, 19 .

Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

* Delete for purpose of advertisement. For use as personal notice insert at head of form the name and address of the person or body to whom the notice is directed.

¹ Insert citation title of re-development plan.

² Description of the Local Authority.

³ Insert citation title of re-development area.

(Note.—When using this form in connection with a new re-development plan in respect of the whole or any part of a re-development area the appropriate adaptations should be made.)

FORM No. 44.

COMPULSORY PURCHASE ORDER IN RESPECT OF LAND IN A RE-DEVELOPMENT AREA. Section 36.

Housing Act, 1936.

Whereas pursuant to section 34 of the Housing Act, 1936, the¹ (hereinafter referred to as "the Council") after complying with the requirements of the said section by a resolution passed on the day of , 19 , declared a certain area in their district to be a proposed re-development area ;

And Whereas a re-development plan in respect of the said area, prepared in accordance with the provisions of section 35 of the said Act, was approved [with certain modifications] by the Minister of Health on the day of , 19 , and the approval has become operative ;

And Whereas by a resolution passed on the day of , 19 , the Council determined to purchase the lands hereinafter described, as being lands in the said re-development area :

Now Therefore the Council in pursuance of their powers under section 36 of the Housing Act, 1936, hereby make the following order—

1. Subject to the provisions of this order the Council are hereby authorised to purchase compulsorily for the purposes of the provisions of Part III of the Housing Act, 1936, relating to re-development, the lands described in the [first] schedule hereto which lands are delineated by brown edging on a map marked² and sealed with the common seal of the Council and deposited at the offices of the Council.

2.³ The lands numbered in the [first] schedule and shown hatched yellow on the said map are purchased for the provision of houses for the working classes.

3. Subject to any necessary adaptations the provisions of—

- (a) the Lands Clauses Acts (except sections 127 to 132 of the Lands Clauses Consolidation Act, 1845) ;
- (b) the Acquisition of Land (Assessment of Compensation) Act, 1919 ; and
- (c) section 77 of the Railways Clauses Consolidation Act, 1845, and sections 78 to 85 of that Act as originally enacted and not as amended for certain purposes by section 15 of the Mines (Working Facilities and Support) Act, 1923,

as modified by the provisions of the First Schedule to the Housing Act, 1936, applicable to compulsory purchase orders made under section 36 of the Act, are hereby incorporated in this order and the provisions of those Acts shall apply accordingly.

4.³ The houses specified in the second schedule hereto and shown coloured pink on the said map are indicated as being unfit for human habitation and not capable at reasonable expense of being rendered so fit, and are houses which the Council are authorised to purchase as being unfit for human habitation.

5.⁴ The sums agreed upon or awarded for the purchase of any land comprised in this order which is glebe land or other land belonging to an ecclesiastical benefice or to be paid by way of compensation for the damage to be sustained by the owner by reason of severance or injury affecting any such land, shall not be paid as directed by the Lands Clauses Acts, but shall be paid to the Ecclesiastical Commissioners to be applied by them as money paid to them upon a sale, under the provisions of the Ecclesiastical Leasing Acts of land belonging to a benefice.

6. This order may be cited as⁵
Order, 19 .

[FIRST] SCHEDULE.

LANDS COMPRISED IN THE ORDER.*

Reference numbers on map.	Description and situation of the lands.	Owners or reputed owners.	Lessees or reputed lessees.	Occupiers (except tenants for a month or less than a month).

SECOND SCHEDULE.³

HOUSES TO BE PURCHASED AS BEING UNFIT FOR HUMAN HABITATION.

Reference numbers on map.	Description and situation of house.	Owners or reputed owners.	Lessees or reputed lessees.	Occupiers.

Given under the seal of the ¹ this
day of , 19 .

Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

- ¹ Description of the Local Authority.
- ² The map should be identified by a heading in the terms of the short title of this order.
- ³ To be omitted if inapplicable.
- ⁴ Insert this clause where the lands in the order include glebe land or other land belonging to an ecclesiastical benefice.
- ⁵ Insert a suitable short title.
- ⁶ The first schedule must contain *all* the lands to be purchased compulsorily under the order, including the houses specified in the Second Schedule.

FORM No. 45.

Para. 3 (a) of
First Schedule.

ADVERTISEMENT OF A COMPULSORY PURCHASE ORDER IN RESPECT OF LAND IN RE-DEVELOPMENT AREA.

Housing Act, 1936.

Notice is hereby given that the ¹ in pursuance of their powers under section 36 of the Housing Act, 1936, on the day of , 19 , made an order which will be submitted for confirmation by the Minister of Health authorising them to purchase compulsorily the lands described in the schedule hereto, being lands in the ² Re-development Area in respect of which a re-development plan has been approved by the Minister of Health and the approval has become operative.

Copies of the said order and of the map referred to therein and a copy of the approved re-development plan have been deposited at and may be inspected at all reasonable hours.

³ Reference to the order and map will show which houses comprised in the land to be purchased compulsorily are to be purchased as being unfit for human habitation and not capable at reasonable expense of being rendered so fit.

Schedule.

(Here insert description of the lands comprised in the order.)

Dated this day of , 19 .

Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

- ¹ Description of the Local Authority.
- ² Insert citation title of re-development area.
- ³ This paragraph to be omitted if no unfit houses are indicated in the order.

FORM No. 46.

NOTICE TO OWNERS, LESSEES, OCCUPIERS AND MORTGAGEES OF THE MAKING OF A
COMPULSORY PURCHASE ORDER IN RESPECT OF LAND IN A RE-DEVELOPMENT
AREA.

Paras. 3 (b) a
13 of First
Schedule.

Housing Act, 1936.

To { Owner
Lessee
Occupier
Mortgagee * } of †

Take notice that the ¹ in pursuance of their powers under section 36 of the Housing Act, 1936, on the day of , 19 , made an order which is about to be submitted for confirmation by the Minister of Health authorising them to purchase compulsorily the lands described in the schedule hereto.

The lands included in the order are lands in the ² Re-development Area in respect of which a re-development plan has been approved by the Minister of Health and the approval has become operative.

Copies of the order and of the map referred to therein, and a copy of the approved re-development plan, have been deposited at and may be inspected at all reasonable hours.

³ Reference to the order and map will show which houses comprised in the land to be purchased compulsorily are to be purchased as being unfit for human habitation and not capable at reasonable expense of being rendered so fit. ⁴ The

houses in which you are interested as { owner
lessee
occupier
mortgagee * } which are indicated in the

order as being in that condition are specified in the schedule to this notice.

Any objection to the order must be made in writing stating the grounds of your objection and addressed to the Minister of Health, Whitehall, London, S.W.1, before the ⁵ day of , 19 .

The Act provides that if any objection is duly made in writing by any of the persons upon whom notices are required to be served stating as the grounds thereof either—

- (a) that any house indicated in the order as being unfit for human habitation, and not capable at reasonable expense of being rendered so fit, ought not to have been so indicated; or
- (b) that the objector is prepared to enter into arrangements for the carrying out of re-development, or for securing the use of the land, in accordance with the re-development plan;

the Minister shall, unless the objection is withdrawn, cause a public local inquiry to be held with respect thereto and shall consider any objection not withdrawn and the report of the person who held the inquiry, and may then confirm the order either with or without modification; in any other case the Minister may confirm the order with or without modification and either after, or without, causing a public local inquiry to be held.

⁵ The compensation payable in respect of houses which are indicated in the order as being unfit for human habitation and not capable at reasonable expense of being rendered so fit will, if the order is confirmed by the Minister, be the value, at the time the valuation is made, of the sites of such houses as cleared of buildings and available for development in accordance with the requirements of the building byelaws for the time being in force in the district, assessed in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919.

The compensation payable for the lands [³ which do not comprise houses which are so unfit] will, if the order is confirmed by the Minister, be assessed in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919, subject to the rules specified in the Fourth Schedule to the Housing Act, 1936.

Schedule.

- (i) The lands included in the order are—
(here insert description of *all* the lands comprised in the order.)
- (ii) ⁴ The houses in which you are interested and which are indicated in the order as being unfit for human habitation are—
(here insert description of such houses sufficient for purposes of identification.)

Dated this day of , 19

Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

* The notice should be served on every mortgagee of houses indicated in the order as being unfit for human habitation, if it is reasonably practicable to ascertain such persons.

[†] Description of property in respect of which the notice is served.

¹ Description of the Local Authority.

² Insert citation title of re-development area.

³ To be omitted if no unfit houses are indicated in the order.

⁴ To be omitted if inapplicable.

⁵ Not less than fourteen days from the service of the notice should be allowed.

FORM No. 47.

Second
Schedule.

ADVERTISEMENT AND PERSONAL NOTICE OF COMPULSORY PURCHASE ORDER CONFIRMED BY THE MINISTER OF HEALTH IN RESPECT OF LAND IN A RE-DEVELOPMENT AREA.

Housing Act, 1936.

To *

Take Notice *

Notice is hereby given that the Minister of Health in pursuance of the powers vested in him by the Housing Act, 1936, on the _____ day of _____, 19____, confirmed [with modifications] an order submitted to him by ¹ _____ authorising them to purchase compulsorily under section 36 of the Housing Act, 1936, the lands described in the schedule hereto, being lands comprised in the ² _____ Re-development Area.

Copies of the confirmed order and of the map referred to therein, and a copy of the re-development plan, have been deposited at _____ and may be inspected at all reasonable hours.

³ Reference to the confirmed order and the map will show which houses comprised in the land to be purchased compulsorily are to be purchased as being unfit for human habitation and not capable at reasonable expense of being rendered so fit.

The order will become operative at the expiration of six weeks from the date of publication of this notice, but if proceedings in the High Court are instituted within that period by an aggrieved person desirous of questioning the validity of the order, the court may, if satisfied that the order is not within the powers of that Act or that the interests of the applicant have been substantially prejudiced by any requirements of the Act not having been complied with, quash the order either generally or in so far as it affects any property of the applicant.

Schedule.

(Here insert description of the lands comprised in the confirmed order, and in the personal notices indicate any unfit houses in which the person notified is interested.)

Dated this _____ day of _____, 19____.

Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

* Delete for purpose of advertisement. For use as personal notice insert at head of form the name and address of the person or body to whom the notice is directed.

¹ Description of the Local Authority.

² Citation title of re-development area.

³ This paragraph should be omitted if no unfit houses were indicated in the order as submitted to the Minister.

FORM No. 48.

Section 36.

COMPULSORY PURCHASE ORDER IN RESPECT OF LAND OUTSIDE A RE-DEVELOPMENT AREA.

Housing Act, 1936.

Whereas pursuant to section 34 of the Housing Act, 1936, the ¹ _____ (hereinafter referred to as "the Council") after complying with the requirements of the said section by a resolution passed on _____ the _____ day of _____, 19____, declared a certain area in their district to be a proposed re-development area;

And Whereas a re-development plan in respect of the said area, prepared in accordance with the provisions of section 35 of the said Act, was approved [with certain modifications] by the Minister of Health on the _____ day of _____, 19____, and the approval has become operative ;

And Whereas by a resolution passed on the _____ day of _____, 19____, the Council determined to purchase the lands hereinafter described outside the said re-development area for the purpose of providing accommodation for persons occupying premises within that area, being premises which the Council have purchased: _____ or in respect of which the Council have submitted compulsory purchase orders: _____

Now Therefore the Council in pursuance of their powers under section 36 of the Housing Act, 1936, hereby make the following order —

i. Subject to the provisions of this order the Council are hereby authorised to purchase compulsorily for the purpose of providing accommodation in connection with re-development under the provisions of Part III of the Housing Act, 1936, the lands described in the [first] schedule hereto which lands are delineated by blue edging on a map marked ² and sealed with the common seal of the Council and deposited at the offices of the Council.

2.³ The lands numbered _____ in the [first] schedule and shown hatched yellow on the said map are purchased for the provision of houses for the working classes.

3. Subject to any necessary adaptations the provisions of—

- (a) the Lands Clauses Acts (except sections 127 to 132 of the Lands Clauses Consolidation Act, 1845);
- (b) the Acquisition of Land (Assessment of Compensation) Act, 1919; and
- (c) section 77 of the Railways Clauses Consolidation Act, 1845, and sections 78 to 85 of that Act as originally enacted and not as amended for certain purposes by section 15 of the Mines (Working Facilities and Support) Act, 1923.

as modified by the provisions of the First Schedule to the Housing Act, 1936, applicable to compulsory purchase orders made under section 36 of the Act, are hereby incorporated in this order and the provisions of those Acts shall apply accordingly.

4.³ The houses specified in the second schedule hereto and shown coloured pink on the said map are indicated as being unfit for human habitation and not capable at reasonable expense of being rendered so fit, and are houses which the Council are authorised to purchase as being unfit for human habitation.

5.4 The sums agreed upon or awarded for the purchase of any land comprised in this order which is glebe land or other land belonging to an ecclesiastical benefice or to be paid by way of compensation for the damage to be sustained by the owner by reason of severance or injury affecting any such land, shall not be paid as directed by the Lands Clauses Acts, but shall be paid to the Ecclesiastical Commissioners to be applied by them as money paid to them upon a sale, under the provisions of the Ecclesiastical Leasing Acts of land belonging to a benefice.

6. This order may be cited as the ⁵
Order, 19 .

[FIRST] SCHEDULE.

LANDS COMPRISED IN THE ORDER.*

Reference numbers on map.	Description and situation of the lands.	Owners or reputed owners.	Lessees or reputed lessees.	Occupiers (except tenants for a month or less than a month).

SECOND SCHEDULE.³

HOUSES TO BE PURCHASED AS UNFIT FOR HUMAN HABITATION.

Reference numbers on map.	Description and situation of house.	Owners or reputed owners.	Lessees or reputed lessees.	Occupiers.

Given under the seal of¹
this day of , 19 .

Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

¹ Description of the Local Authority.

² The map should be identified by a heading in the term of the short title of the order.

³ To be omitted if inapplicable.

⁴ Insert this clause where the lands in the order include glebe land or other land belonging to an ecclesiastical benefice.

⁵ Insert a suitable short title.

* The first schedule must contain all the lands to be purchased compulsorily under the order, including the houses specified in the second schedule.

FORM No. 49.

Para. 3 (a) of
First Schedule.

ADVERTISEMENT OF A COMPULSORY PURCHASE ORDER IN RESPECT OF LAND OUTSIDE A RE-DEVELOPMENT AREA.

Housing Act, 1936.

Notice is hereby given that the¹
in pursuance of their powers under section 36 of the Housing Act, 1936, on the
day of , 19 , made an order which will
be submitted for confirmation by the Minister of Health authorising them to purchase
compulsorily the lands specified in the schedule hereto, being lands which the Council
have determined to purchase for the purpose of providing accommodation for
persons occupying premises within the²
Re-development Area in respect of which a re-development plan has been approved
by the Minister of Health and the approval has become operative.

Copies of the said order and of the map referred to therein have been deposited
at and may be inspected at all reasonable
hours.

³ Reference to the order and map will show which houses comprised in the land
to be purchased compulsorily are to be purchased as being unfit for human habitation
and not capable at reasonable expense of being rendered so fit.

Schedule.

(Here insert description of the lands comprised in the order.)

Dated this day of , 19 .

Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

¹ Description of the Local Authority.

² Insert citation title of re-development area.

³ This paragraph to be omitted if no unfit houses are indicated in the order.

FORM No. 50.

NOTICE TO OWNERS, LESSEES, OCCUPIERS AND MORTGAGEES OF THE MAKING OF A COMPULSORY PURCHASE ORDER IN RESPECT OF LAND OUTSIDE A RE-DEVELOPMENT AREA.

Paras. 3 (b) and 13 of First Schedule.

Housing Act, 1936.

To

Owner
Lessee
Occupier
Mortgagee *

 of †

Take Notice that the ¹ in pursuance of their powers under section 36 of the Housing Act, 1936, on the day of , 19 , made an order which is about to be submitted for confirmation by the Minister of Health authorising them to purchase compulsorily the lands specified in the schedule hereto.

The lands included in the order are lands which the Council have determined to purchase for the purpose of providing accommodation for persons occupying premises within the ² Re-development Area in respect of which a re-development plan has been approved by the Minister of Health and the approval has become operative.

Copies of the said order and of the map referred to therein have been deposited at and may be inspected at all reasonable hours.

³ Reference to the order and map will show which houses comprised in the land to be purchased compulsorily are to be purchased as being unfit for human habitation and not capable at reasonable expense of being rendered so fit. ⁴ The houses in

which you are interested as

owner
lessee
occupier
mortgagee *

 which are indicated in the order as

being in that condition are specified in the schedule to this notice.

Any objection to this order must be made in writing stating the grounds of your objection and addressed to the Minister of Health, Whitehall, London, S.W. 1, before the ⁵ day of , 19 .

The Act provides that if any objection is duly made in writing by any person upon whom notices are required to be served stating as the ground thereof either—

- (a) that any house indicated in the order as being unfit for human habitation and not capable at reasonable expense of being rendered so fit ought not to have been so indicated ; or
- (b) any matter not being a matter which in the opinion of the Minister can be dealt with by the arbitrator by whom the compensation is to be assessed ;

the Minister shall, unless the objection is withdrawn cause a public local inquiry to be held with respect thereto and shall consider any objection not withdrawn and the report of the person who held the inquiry, and may then confirm the order either with or without modification ; in any other case the Minister may confirm the order with or without modification and either after, or without, causing a public local inquiry to be held.

⁶ The compensation payable in respect of houses which are indicated in the order as being unfit for human habitation and not capable at reasonable expense of being rendered so fit, will, if the order is confirmed by the Minister, be the value at the time the valuation is made of the sites of such houses as cleared of buildings and available for development in accordance with the requirements of the building byelaws for the time being in force in the district, assessed in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919.

The compensation payable for the lands [⁷ which do not comprise houses which are so unfit] will, if the order is confirmed by the Minister, be assessed in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919, subject to the rules specified in the Fourth Schedule to the Housing Act, 1936.

Schedule.

- (i) The lands included in the order are—
(here insert description of *all* the lands comprised in the order).
- (ii) ⁴ The houses in which you are interested and which are indicated in the order as being unfit for human habitation are—
(here insert description of such houses sufficient for purposes of identification).

Dated this

day of

, 19 .

Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

* The notice should be served on every mortgagee of houses indicated in the order as being unfit for human habitation, if it is reasonably practicable to ascertain such persons.

† Description of property in respect of which the notice is served.

¹ Description of the Local Authority.

² Insert citation title of re-development area.

³ To be omitted if no unfit houses are indicated in the order.

⁴ To be omitted if inapplicable.

⁵ Not less than fourteen days from the service of the notice should be allowed.

FORM No. 51.

Second
Schedule.

ADVERTISEMENT AND PERSONAL NOTICE OF COMPULSORY PURCHASE ORDER CONFIRMED BY THE MINISTER OF HEALTH IN RESPECT OF LAND OUTSIDE A RE-DEVELOPMENT AREA.

Housing Act, 1936.

To *

Take Notice *

Notice is hereby given _____ that the Minister of Health in pursuance of the powers vested in him by the Housing Act, 1936, on the day of _____, 19 _____, confirmed [with modifications] an order submitted to him by ¹ _____ authorising them to purchase compulsorily under section 36 of the Housing Act, 1936, the lands described in the schedule hereto, being lands required for the purpose of providing accommodation for persons occupying premises within the ² _____ Re-development Area.

Copies of the confirmed order and of the map referred to therein have been deposited at _____ and may be inspected at all reasonable hours.

³ Reference to the confirmed order and map will show which houses comprised in the land to be purchased compulsorily are to be purchased as being unfit for human habitation and not capable at reasonable expense of being rendered so fit.

The order will become operative at the expiration of six weeks from the date of publication of this notice, but if proceedings in the High Court are instituted within that period by an aggrieved person desirous of questioning the validity of the order, the court may, if satisfied that the order is not within the powers of the Act, or that the interests of the applicant have been substantially prejudiced by any requirement of the Act not having been complied with, quash the order either generally or in so far as it affects any property of the applicant.

Schedule.

(Here insert description of the lands comprised in the confirmed Order, and in the personal notices indicate any unfit houses in which the person notified is interested.)

Dated this

day of

, 19 .

Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

* Delete for purpose of advertisement. For use as personal notice insert at head of form the name and address of the person or body to whom the notice is directed.

¹ Description of the Local Authority.

² Citation title of re-development area.

³ This paragraph should be omitted if no unfit houses were indicated in the order as submitted to the Minister.

Given under the official seal of the Minister of Health this twenty-fifth day of January, nineteen hundred and thirty-seven.

(L.S.)

H. H. George,
Assistant Secretary,
Ministry of Health.

The Housing Act (Extinguishment of Public Right of Way) Regulations, 1937, made by the Minister of Health under section 176 (1) of the Housing Act, 1936.

Dated 29 January, 1937.

S. R. & O., 1937, No. 79.

88532.

The Minister of Health in exercise of the powers conferred on him by section 176 (1) of the Housing Act, 1936, and all other powers enabling him in that behalf, hereby makes the following Regulations:—

1. These Regulations may be cited as the Housing Act (Extinguishment of Public Right of Way) Regulations, 1937, and shall come into operation forthwith.

2. The Interpretation Act, 1889, applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

3. The Housing Acts (Extinguishment of Public Right of Way) Regulations, 1936, are hereby revoked but without prejudice to anything done thereunder or to the continuance under those Regulations of any action taken or commenced before the commencement of the Housing Act, 1936.

4. An order made by a local authority under Section 46 of the Housing Act, 1936, for the extinguishment of any public right of way over any land which—

- (1) they have purchased or resolved to purchase under Part III of the Housing Act, 1936; or
- (2) is land belonging to the local authority which they have included in a clearance area or which might have been purchased by the authority as being land surrounded by or adjoining a clearance area had it not previously been acquired by them; or
- (3) is land belonging to the local authority and is comprised in a re-development plan in respect of which the approval of the Minister of Health has become operative,

shall be in the form set out in the schedule hereto or in a form substantially to the like effect.

5. Not less than six weeks before submitting the order for the approval of the Minister of Health the local authority shall—

- (a) publish in one or more local newspapers circulating within their district a notice in the form set out in the schedule hereto describing the public right of way to which the order relates and naming a

place at which a copy of the order and of the map referred to therein may be seen at all reasonable hours : and

- (b) affix a copy of the same notice in a prominent position at each end of the public right of way to which the order relates.

6. Every notice affixed in accordance with the last preceding clause shall be kept exhibited in such position for a period of not less than six weeks.

SCHEDULE.

FORM OF ORDER EXTINGUISHING A PUBLIC RIGHT OF WAY.

Housing Act, 1936.

Whereas the ¹

(hereinafter referred to as "the Council") in pursuance of their powers under section 46 of the Housing Act, 1936, by a resolution passed on the _____ day of _____, 19____, determined to order the extinguishment of the public right of way along the street² _____ road _____ known as _____ pathway _____ passage _____

over certain lands situate at

which lands are shown coloured [pink] on a map marked ³
and sealed with the common seal of the Council and deposited at the offices of the
Council :

Now Therefore the Council in pursuance of their powers under the said section hereby order that the public right of way over the said lands along the street²

road
pathway known as
passage

and marked on the said map by ⁴ [dotted lines between points A and B and thereon hatched brown] shall cease and be extinguished as from the date of operation of this order.

This order may be cited as the ⁵ Right
of Way Extinguishment Order, 19 , and shall come into operation as from the *

Given under the seal of the¹

.....day of.....19.....

(L.S.)

Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

- ¹ Description of the Local Authority.
² Strike out whichever descriptions are inappropriate.
³ The map should be identified by a heading in the terms of the short title of the order.
⁴ Or other clear description.
⁵ Here insert a suitable short title.
* If the order for extinguishment of the right of way is made in advance of the purchase of the land, the order may, under the provisions of Section 46 of the Housing Act, 1936, extinguish that right as from the date on which the buildings on the land are vacated or at the expiration of such period thereafter as may be specified in the order, or as the Minister in approving the order may direct. In any other case the date of operation of the order should be stated either as the date of its approval by the Minister of Health or as at the expiration of a specified time thereafter.

FORM OF NOTICE OF THE MAKING OF AN ORDER EXTINGUISHING A PUBLIC RIGHT
OF WAY.

Housing Act, 1936.

Notice is hereby given that the¹
in pursuance of their powers under Section 46 of the Housing Act, 1936, on the
day of , 19 , made an order which will
be submitted to the Minister of Health for his approval, ordering that the public
right of way described in the schedule hereto be extinguished as from the²

A copy of the said order and of the map referred to therein has been deposited at _____ and may be seen at all reasonable hours.

Any objection to the said order must be made in writing, stating the grounds of objection, and addressed to the Minister of Health, Whitehall, London, S.W., before the ³ _____ day of _____, 19 _____.

The Act provides that if any objection to the order is duly made to the Minister before the expiration of six weeks from the date of publication thereof, the Minister shall not approve the order until he has caused a public local inquiry to be held into the matter.

Schedule.

(here insert such a description of the public right of way to which the order relates as may be sufficient for identification.)

Dated this.....day of.....19.....

Signature of the Clerk of the Local Authority.

DIRECTIONS FOR FILLING UP THIS FORM.

¹ Description of Local Authority.

² Insert date of operation specified in the Order.

³ Here insert a date six clear weeks from the date of publication of the notice.

Given under the official seal of the Minister of Health this twenty-ninth day of January, nineteen hundred and thirty-seven.

(L.S.)

H. H. George,
Assistant Secretary,
Ministry of Health.

The Housing Act (Overcrowding and Miscellaneous Forms) Regulations, 1937, made by the Minister of Health under section 176 (1) of the Housing Act, 1936.

Dated 29 January, 1937.

S. R. & O., 1937, No. 80.

88505.

The Minister of Health in the exercise of the powers conferred on him by section 176 (1) of the Housing Act, 1936, and all other powers enabling him in that behalf, hereby makes the following Regulations:—

1. These Regulations may be cited as the Housing Act (Overcrowding and Miscellaneous Forms) Regulations, 1937, and shall come into operation forthwith.

2.—(i) In these Regulations the expression “ the Act ” means the Housing Act, 1936.

(ii) The Interpretation Act, 1889, applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

3. The Housing Acts (Overcrowding and Miscellaneous Forms) Regulations, 1936, are hereby revoked but without prejudice to anything done thereunder or to the continuance under those Regulations of any action taken or commenced before the commencement of the Act.

4. For determining for the purposes of Part IV of the Act the number of persons permitted to use a house for sleeping, the floor area of a room shall be ascertained for the purposes of the Fifth Schedule to the Act, in the following manner—

(i) The area of any part of the floor space over which the vertical height of the room is, by reason of a sloping roof or ceiling, reduced to less than 5 feet shall be excluded from the computation of the floor area of that room.

- (ii) Subject to any exclusion under the foregoing rule, the floor shall be measured so as to include in the computation of the floor area any floor space formed by a bay window extension and any area at floor level which is covered or occupied by fixed cupboards or projecting chimney breasts.
- (iii) All measurements for the purpose of computing the floor area shall be made at the floor level and, subject as aforesaid, shall extend to the back of all projecting skirtings.

5. The summary of the provisions of sections 58, 59 and 61 of the Act which, under subsection (1) of section 62 of the Act, is required to be inserted in every rent book or similar document, used in relation to a dwelling-house by or on behalf of the landlord thereof, shall be in the form set out in Part I of the Schedule hereto.

6. The forms set out in Part II of the schedule hereto, or forms substantially to the like effect, shall be used by a local authority in connection with their powers and duties under the Act in all cases to which those forms are applicable.

SCHEDULE.

PART I.

Summary of Sections 58, 59 and 61 of the Housing Act, 1936, to be inserted in a Rent Book or similar document.

1. After the.....day of.....an occupier who causes or permits his dwelling to be overcrowded is liable to prosecution for an offence under the Housing Act, 1936, and, if convicted, to a fine not exceeding five pounds. Any part of a house which is occupied by a separate family is a "dwelling".

2. A dwelling is overcrowded if the number of persons sleeping in it is more than the "permitted number", or is such that two or more of those persons, being ten years old or over, of opposite sexes (not being persons living together as husband and wife), must sleep in the same room.

3. The "permitted number" for the dwelling to which this [Rent Book] [] relates is.....persons. In counting the number of persons each child under ten years of age counts as half a person, and a child of less than one year is not counted at all.

4. The Act contains special provisions relating to overcrowding already existing on the above-mentioned date or which is due to a child attaining the age of either one or ten years after that date, or which is due to exceptional circumstances. Full information about these special provisions and all provisions as to overcrowding can be obtained free on application to the Local Authority whose address is.....

PART II.

FORM A.

NOTICE BEFORE ENTRY FOR THE PURPOSE OF MEASUREMENT OF THE ROOMS OF A HOUSE.

Housing Act, 1936.

[Section 157 (d).]

To *
 The occupier [owner] of the premises.....
(description of premises).
 TAKE NOTICE that in pursuance of Section 157 of the Housing Act, 1936, I
being a person duly authorised in writing by the
Council of.....intend on the
day of.....19 at any time between.....in the forenoon
 and.....in the afternoon, to enter the above-mentioned premises for the

purpose of measuring the rooms for ascertaining, in accordance with the provisions of the Housing Act, 1936, the number of persons permitted to use the said premises for sleeping.

Dated this.....day of.....19 .

Signature } of the person
Description } authorised
Residence or Place of Business } to enter.

* Notice must be given to the occupier and also to the owner, if the owner is known.

† 24 hours notice must be given before entry.

FORM B.

NOTICE REQUIRING STATEMENT OF PERSONS SLEEPING IN A HOUSE.

Housing Act, 1936.

[Section 66 (3).]

To
Occupier of.....(description of premises).

YOU ARE HEREBY REQUIRED by the.....
Council of.....in pursuance of Section 66 of the
Housing Act, 1936, to complete the statement given below stating the numbers,
ages and sexes of the persons sleeping in the above-mentioned premises within
the period of twenty-four hours ending at noon on the†.....day of
.....19 .

The statement required must be completed by you, as occupier of the said
premises, and must be delivered or sent by post addressed to.....
WITHIN FOURTEEN DAYS from the date of this Notice.

Date.....

Signature of the Clerk of the Local Authority.

(Any person who fails to give the required information or who furnishes a state-
ment which to his knowledge is false in any material particular is liable on summary
conviction to a fine of £2.)

STATEMENT REQUIRED.

The total number of persons sleeping at *.....
.....within the period of twenty-four hours
ending at noon on the * †.....day of.....19 , was
.....(number) persons, consisting of :—

Male persons ten years old or over	} (number).....									
Female persons ten years old or over		} (number).....								
Children one year old or over but under ten years	} (number).....(ages)		} years months	} years months	} years months					
	
	
	
Children under one year old...	} (number).....(ages)	} months								
									
									
									

I declare that the particulars given by me in the above statement are true and accurate to the best of my knowledge.

Date.....

Signature of occupier of premises.

* These spaces should be filled up by the Authority.

† The date specified should be the date of the Notice.

FORM C.

NOTICE THAT A HOUSE IS OVERCROWDED.

Housing Act, 1936.

[Section 59 (5).]

To.....
.....(name and address of the Landlord or his Agent)

The.....Council of.....
in pursuance of their powers under Part IV of the Housing Act, 1936, hereby give you Notice that the premises.....

.....(description of premises) of which you are the Landlord [Agent for the Landlord] are overcrowded in such circumstances as to render the occupier thereof guilty of an offence under the Act, for the reason that [the number of persons sleeping therein is in excess of the permitted number which is..... persons] or *[the number of persons sleeping therein is such that two or more of those persons, being ten years old or more, of opposite sexes (not being persons living together as husband and wife) must sleep in the same room.]

Under the provisions of subsection (5) of Section 59 of the Housing Act, 1936, the landlord of an overcrowded house is deemed to cause or permit it to be overcrowded if, after notice in writing that it is overcrowded in such circumstances as to render the occupier thereof guilty of an offence has been served upon the landlord or his agent by the local authority, the landlord fails to take such steps as it is reasonably open to him to take for securing the abatement of the overcrowding, including if necessary, legal proceedings for the possession of the house.

Subsection (1) of the same section provides that if the landlord of a dwelling-house causes or permits it to be overcrowded, he shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding £5, and to a further fine not exceeding £2 in respect of every day subsequent to the day on which he is convicted on which the offence continues.

Dated this.....day of.....19 ..

Signature of the Clerk of the Local Authority.

FORM D.

NOTICE TO OCCUPIER TO ABATE OVERCROWDING.

Housing Act, 1936.

[Section 66 (2).]

To
Occupier of.....(description of premises).

Whereas it appears to the.....Council of.....
.....that the above mentioned premises are overcrowded in such circumstances as to render the occupier thereof guilty of an offence under the Housing Act, 1936, for the reason that [the number of persons sleeping in the premises is in excess of the permitted number which is..... persons] or *[the number of persons sleeping in the premises is such that two or more of those persons, being ten years old or more, of opposite sexes (not being persons living together as husband and wife) must sleep in the same room].

TAKE NOTICE that the Council in pursuance of their powers under Section 66 of the Housing Act, 1936, hereby require you, before the expiration of fourteen days from the date of the service of this Notice on you, to abate the overcrowding of the

above-mentioned premises, and for that purpose to (*state general action required to be taken by the occupier*).....

If you fail to abate the overcrowding, proceedings for giving vacant possession of the premises to the landlord will be instituted by the Council under the provisions of the said Section 66 of the Act.

Dated this.....day of.....19 .

Signature of the Clerk of the Local Authority.

* This alternative can only apply to a dwelling consisting of one room.

FORM E.

LICENCE FOR TEMPORARY USE OF HOUSE BY PERSONS IN EXCESS OF THE PERMITTED NUMBER.

Housing Act, 1936.

[Section 61.]

To.....
Occupier or intending Occupier of the premises.....
.....(*description of premises*).

The.....Council of.....
in pursuance of Section 61 of the Housing Act, 1936, having considered your application dated the.....day of.....19 , for a licence to permit more than the permitted number of persons to sleep in the premises known as.....

Do HEREBY AUTHORISE you to permit.....persons only in excess of the permitted number.....to sleep in the above-mentioned premises during the period from.....to.....(*specify period not exceeding 12 months*) subject to the following conditions:—

UNLESS PREVIOUSLY REVOKED this licence will continue in force until the expiration of the above-mentioned period only, that is to say until the.....day of.....19 , and authorises you during such period to permit the total number of.....persons to sleep in the above-mentioned premises.

This licence may be revoked by the Council at their discretion by means of a notice in writing specifying a period (not being less than one month from the date of the service of the notice) at the expiration of which the licence is to cease to be in force.

Dated this.....day of.....19 .

Signature of the Clerk of the Local Authority.

FORM F.

NOTICE REVOKING LICENCE TO EXCEED THE PERMITTED NUMBER OF PERSONS.

Housing Act, 1936.

[Section 61 (3).]

To.....
Occupier or intending Occupier of the Premises.....
.....(*description of premises*).

Whereas the.....Council of.....
in pursuance of their powers under subsection (3) of Section 61 of the Housing Act, 1936, have determined to revoke the licence granted to you on the.....day of.....19 , whereby you were authorised to permit.....persons in excess of the number.....to sleep in the premises known as.....during the period from.....to.....

NOW THEREFORE I GIVE YOU NOTICE that the said licence is revoked and will cease to be in force as from the expiration of.....
(*insert period not less than one month*) from the date of service of this Notice.

If, after the expiration of the above-mentioned period, you permit more than(*permitted number*) persons to sleep in the above-mentioned premises, you will be liable to prosecution for an offence in relation to overcrowding under the provisions of Section 59 of the Act of 1936.

Dated this.....day of.....19 .

Signature of the Clerk of the Local Authority.

FORM G.

CERTIFICATE AS TO SUITABLE ALTERNATIVE ACCOMMODATION.

Housing Act, 1936.

[Section 68.]

PREMISES to which
this certificate relates : { (*Description*).....
(*Address*).....

The.....Council of.....
.....HEREBY CERTIFY under Section 68 of the Housing Act, 1936, that the above-mentioned premises, of which the permitted number under the Act is.....persons, are suitable to the needs of.....and his family of.....persons now living at.....
as regards security of tenure and proximity to place of work and otherwise, and are suitable in relation to his means *[and are also suitable as respects extent of accommodation, having regard to the standard specified in paragraph (b) of Section 136 of the Housing Act, 1936].

Dated thisday of.....19 .

Signature of the Clerk of the Local Authority.

* This part is required only if the certified house belongs to the Local Authority.

FORM H.

CERTIFICATE OF AVAILABILITY OF SUITABLE ALTERNATIVE ACCOMMODATION.

Housing Act, 1936.

[Section 50 (2).]

The.....Council of.....
.....in pursuance of subsection (2) of Section 50 of the Housing Act, 1936, are satisfied that for the purpose of enabling re-development to be carried out in accordance with proposals which have been submitted to them by.....
.....of.....and in respect of which they have given notice of their satisfaction, it is necessary that the dwelling-house.....
(*description*) to which the Rent and Mortgage Interest Restrictions Acts, 1920 to 1933, apply, should be vacated.

And the Council HEREBY CERTIFY that suitable alternative accommodation * within the meaning of Part IV of the Housing Act, 1936, is [will be] available [on the.....day of.....19] for.....
.....(*name*) tenant of the above-mentioned dwelling-house and his family consisting of.....persons at (*description of premises which are or will be available*).....

Dated this.....day of.....19 .

Signature of the Clerk of the Local Authority.

* A certificate as to suitable alternative accommodation in the preceding Form G must have been given in respect of the house.

FORM I.

CERTIFICATE OF FITNESS OF A HOUSE.

Housing Act, 1936.

[Section 51.]

HOUSE to which
this certificate relates : { (Description).....
(Address).....

TheCouncil of.....
.....being satisfied that all requisite works have been executed
HEREBY CERTIFY under Section 51 of the Housing Act, 1936, that the above-mentioned
house is in all respects fit for human habitation and will with reasonable care and main-
tenance remain so fit for a period of *.....years from the date hereof.

Dated this.....day of.....19 .

Signature of the Clerk of the Local Authority.

Fee payable—One Shilling.

* The period inserted must not be less than five nor more than ten years.

Given under the official seal of the Minister of Health this twenty-ninth
day of January, nineteen hundred and thirty-seven.

(L.S.)

H. H. George,
Assistant Secretary,
Ministry of Health.

The Housing Acts (Equalisation Account) Regulations, 1947.

*Dated March 3, 1947, made by the Minister of Health under section 176
of the Housing Act, 1936.*

S. R. & O., 1947, No. 379.

The Minister of Health in exercise of the powers conferred on him by
section 176 of the Housing Act, 1936, and of all other powers enabling him in
that behalf, hereby makes the following regulations :—

1. These regulations may be cited as the Housing Acts (Equalisation
Account) Regulations, 1947.

2.—(1) In these regulations, unless the context otherwise requires, the
following expressions have the meanings hereby assigned to them :—

- " The Act of 1923 " means the Housing, &c. Act, 1923 ;
- " The Act of 1924 " means the Housing (Financial Provisions) Act, 1924 ;
- " The Act of 1936 " means the Housing Act, 1936 ;
- " The Act of 1938 " means the Housing (Financial Provisions) Act, 1938 ;
- " The Minister " means the Minister of Health ;
- " Housing Revenue Account " and " Housing Equalisation Account " have the same meaning as in the Act of 1936.

(2) The Interpretation Act, 1889, applies to the interpretation of these
regulations as it applies to the interpretation of an Act of Parliament.

3. The Housing Acts (Equalisation Account) Regulations, 1938, are hereby
revoked, but without prejudice to anything done thereunder.

4. Subject to the provisions of these regulations every local authority
who keep a Housing Equalisation Account shall in each financial year begin-
ning on the 1st day of April carry to the credit of that account from the
Housing Revenue Account the aggregate of the under-mentioned sums,
namely :—

- (a) an amount equal to the one-seventh part of the aggregate amount of the Exchequer contributions payable to the authority for that year under :—
 - (i) paragraph (b) of subsection (1) of section 1 of the Act of 1923, as amended by sections 1 and 2 of the Act of 1924 ;
 - (ii) Sections 105, 106 and 108 of the Act of 1936 ;
 - (iii) Sections 1 and 2 of the Act of 1938 ;
- (b) an amount equal to the one-seventh part of the aggregate amount of any contributions payable to the authority for that year from a county council under :—
 - (i) Section 115 of the Act of 1936 ;
 - (ii) Section 7 of the Act of 1938.

5. If a local authority satisfy the Minister that, having regard to arrangements made by them for repaying money borrowed for expenditure in connexion with the provision of the houses to which the Housing Revenue Account relates, or for any other reason, it is necessary or expedient that the total amount to be carried to the credit of the Housing Equalisation Account in any year under regulation 4 of these regulations should be varied, the amount to be carried to the credit of that account in that year shall be such sum as the Minister may determine to be appropriate in all the circumstances.

6. If a local authority satisfy the Minister that it is necessary or expedient that an amount should be carried in any year from the Housing Revenue Account in respect of contributions payable under paragraph (b) of subsection (1) of section 1 of the Act of 1923 or under section 107 of the Act of 1936 to the credit of the Housing Equalisation Account the amount to be carried to the credit of that account in that year in respect of the said contributions shall be such sum as the Minister may determine to be appropriate.

7. Where a local authority keep a Housing Equalisation Account such sums as they may, with the approval of the Minister, think it necessary or desirable to transfer to the Housing Revenue Account with a view to carrying out the objects of section 132 of the Act of 1936 shall from time to time be transferred from the Housing Equalisation Account accordingly but, subject to the foregoing provision, an amount equal to all moneys standing to the credit of the Housing Equalisation Account shall be applied in manner provided by section 133 of the Act of 1936.

The Housing Act (Form of Orders and Notices) Amendment Regulations, 1939.

Dated January 16, 1939, made by the Minister of Health under section 176 (1) of the Housing Act, 1936.

S. R. & O., 1939, No. 30.

The Minister of Health, in pursuance of the powers conferred on him by section 176 (1) of the Housing Act, 1936, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

1. These regulations may be cited as the Housing Act (Form of Orders and Notices) Amendment Regulations, 1939, and shall be read as one with the Housing Act (Form of Orders and Notices) Regulations, 1937 (hereinafter referred to as "the principal regulations").

2. For Form No. 4 in the schedule to the principal regulations there shall be substituted the following form :—

FORM No. 4.

NOTICE OF TIME AND PLACE AT WHICH MATTERS RELATING TO THE MAKING OF A
DEMOLITION ORDER IN RESPECT OF A HOUSE WILL BE CONSIDERED.

Housing Act, 1936.

To¹

the person having control of the house²
and to¹

the owners

of the said house and to¹
mortgagees of the said house.

Whereas the³ (hereinafter referred to as
"the Council") are satisfied that the above-mentioned house, which is occupied or
is of a type suitable for occupation by persons of the working classes, is unfit for
human habitation and is not capable at a reasonable expense of being rendered so fit.

TAKE NOTICE that the condition of the above-mentioned house, and any offer
of which notice is duly given, with respect to the carrying out of works thereto, and
any offer with respect to the future user of the house will be considered by the
Council at on the⁴ day of

19 at in the noon, when any of the persons
to whom this notice is addressed will be entitled to be heard.

If you intend to submit an offer with respect to the carrying out of works, you
are required, under the provisions of section 11 (2) of the Housing Act, 1936, to serve
notice in writing upon the Council, within twenty-one days from the date of the
service of this notice, stating your intention to make such an offer.

After giving such notice of intention you will be required to submit a list of the
works which you offer to carry out before the date fixed above for the consideration
of such an offer [or within such reasonable period thereafter as the Council may
allow].

If you fail either (a) to notify the Council within the period of twenty-one days
referred to above, of your intention to make an offer to carry out works to render
the house fit for human habitation, or (b) to make an offer as to the future user of
the house, before or at the meeting on , the
Council are bound by the Housing Act, 1936, to make a Demolition Order requiring
the house to be vacated and subsequently demolished at your expense. Once the
Order becomes operative there is no power to rescind or vary it.

Dated this day of , 19 .

Signature of the Clerk of the Local Authority.

Directions for filling up this form.

¹ Name and address, where known.

² Such a description of the house as may be sufficient for identification.

³ Description of the Local Authority.

⁴ At least 21 days' notice must be given, but the time should in any case be sufficient
to allow a reasonable period for the submission of a list of works after notice has been duly
served on the Council.

The Housing Act (Form of Charging Order) Regulations, 1939.

Dated May 16, 1939, made by the Minister of Health.

S. R. & O., 1939, No. 563.

The Minister of Health, in pursuance of the powers conferred on him by
subsection (1) of section 21 and subsection (1) of section 176 of the Housing
Act, 1936, and of all other powers enabling him in that behalf, hereby makes
the following regulations :—

1. These regulations may be cited as the Housing Act (Form of Charging
Order) Regulations, 1939, and shall come into operation forthwith.

2. The form set out in the Schedule hereto or a form substantially to the
like effect shall be the form to be used in connection with the powers and duties
of a local authority under section 20 of the Housing Act, 1936, to grant a
charging order to an owner on completion of works.

3. The Interpretation Act, 1889, applies to the interpretation of these
regulations as it applies to the interpretation of an Act of Parliament.

SCHEDULE.

CHARGING ORDER.

Housing Act, 1936.

In pursuance of their powers under Section 20 of the Housing Act, 1936, thedo by this order charge the premises mentioned in the schedule hereto with the payment to of the sum of £..... yearly on the..... day of..... for the term of years in consideration of an expenditure of £ incurred by him in respect of the said premises.

Schedule.

Given under the seal of the
day of

this
nineteen hundred and thirty-nine.
Signature of the Clerk of the Local Authority.

**The Ministry of Health (Central Housing Advisory Committee)
Amendment Order, 1945.**

Dated October 2, 1945, made by the Minister of Health.

S. R. & O., 1945, No. 1240.

The Minister of Health in exercise of the powers conferred on him by subsection (2) of section 135 of the Housing Act, 1936, and of all other powers enabling him in that behalf, hereby orders as follows:—

1. This order may be cited as the Ministry of Health (Central Housing Advisory Committee) Amendment Order, 1945, and shall be read as one with the Ministry of Health (Central Housing Advisory Committee) Order, 1935 (in this order called "the principal order"), and this order and the principal order may be cited together as the Ministry of Health (Central Housing Advisory Committee) Orders, 1935 and 1945.

2. The Interpretation Act, 1889, applies to the interpretation of this order as it applies to the interpretation of an Act of Parliament.

3. For article 3 of the principal order there shall be substituted the following article:—

3.—(i) Each person appointed a member of the Committee shall hold office for a period of two years from the 30th day of September next following the date of his appointment and shall then go out of office:

Provided that on a casual vacancy occurring in the Committee the person appointed to fill the vacancy shall hold office until the date when the person in whose place he is appointed would have gone out of office, and he shall then go out of office.

(ii) Each member of the Committee holding office at the date of this order shall go out of office at the expiration of a period of three years from the 30th day of September next following the date on which he was appointed a member.

(iii) A member of the Committee on the expiration of his term of office may be re-appointed subject to the same provisions.

PART 5

**CIRCULARS AND MEMORANDA OF
THE MINISTRY OF HEALTH**

SUMMARY.

Circulars.

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NOTE.

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CIRCULAR 555.

To Housing Authorities, Etc.

MINISTRY OF HEALTH,
30th January, 1925.

HOUSING ACTS.

GUARANTEES TO BUILDING SOCIETIES.

SIR,—I am directed by the Minister of Health to invite the attention of local authorities to an arrangement recently concluded with the Building Societies' Association with regard to the guarantees which may be given by local authorities to building societies under section 5 (1) (b) of the Housing, etc., Act, 1923, as amended by the Second Schedule to the Housing (Financial Provisions) Act, 1924, and applied to county councils by section 12 of the last-named Act. Many persons desiring to build houses for their own occupation are unable to find the difference between the cost of building and the loan which a building society will normally advance under its rules, and the object of the guarantee is to enable the building society to make an additional advance, and so help to bridge the gap. Such guarantees may be given both for houses for the working-classes which would qualify for subsidy assistance and also for houses of a larger type, provided that the local authority's valuation of the mortgagor's interest in the property does not exceed £1,500. The houses for which guarantees may be given are new houses to be built either within or without the district of the local authority. The construction of the houses must not have been commenced before the 25th April, 1923.

The following is a summary of the arrangements which have been agreed between the Minister and the Building Societies' Association :—

- (1) The guarantee will apply in respect of the difference between the total loan to be advanced by the society and the loan which might normally have been advanced by the society under its rules without guarantee.
- (2) The total loan to be advanced by the society with guarantee must not exceed 90 per cent. of the value of the mortgagor's interest in the property as assessed after a valuation made by the local authority in agreement with the building society.
- (3) The local authority's liability under the guarantee will arise only if, upon the sale of the property by the society under the power of sale conferred upon them by the mortgage, the proceeds of the sale are insufficient to cover the principal, interest and costs due to the society under the mortgage.
- (4) The local authority's maximum liability will then be the difference between the deficiency so arising on the sale and the deficiency which would have arisen if the total original loan had been that which the society would normally advance under its rules without guarantee.
- (5) Within one calendar month after the happening of any of the events giving rise to the exercise of the power of sale under the mortgage, the building society shall give notice to the local authority and shall, if so required by the local authority, demand payment of the principal and interest owing on security of the mortgage and in default of payment proceed to the exercise of such power of sale. Subject to this, the building society may allow time to the mortgagor for payment.
- (6) At any time after receipt of the notice mentioned in the preceding paragraph and during the continuance of the mortgage, the local authority may acquire the interest of the building society in the mortgage by payment to the society of the principal, interest and costs then owing on security of the mortgage.
- (7) The guarantee will be determined when the amount of the loan has been reduced by repayment to 45 per cent. of the valuation.

The Building Societies' Association has prepared a model form of guarantee which embodies the arrangements agreed with the Minister, and this form of guarantee has been circulated to the building societies. The Minister has not accepted any responsibility for the precise form of the guarantee because he considers that this is a matter for the legal advisers of the local authority. He would be prepared to consider favourably proposals submitted to him by a local authority for a guarantee in this form, or in any form which, in the opinion of the local authority's advisers, gives effect to the above arrangements, and he would further be prepared to consider any minor modifications of these arrangements which may be thought necessary in view of any special local requirements.

Many building societies have considerable sums available for investment and the Minister has no doubt that co-operation between building societies and local authorities may have very useful results in encouraging the building of houses for their own occupation by those who have a small amount of savings available for investment.

I am, etc.

CIRCULAR 940.

Local Authorities (England and Wales).

MINISTRY OF HEALTH,
London, S.W. 1.
29th November, 1928.

SIR,

I am directed by the Minister of Health to refer to the Circular of January, 1927, No. 756, and to say that he wishes to bring to the notice of Local Authorities arrangements which have been made, with his approval, by the Council for the Preservation of Rural England acting in co-operation with the Royal Institute of British Architects for giving expert advice, free of charge, on the carrying out of works of repair and reconditioning under the Housing (Rural Workers) Act, 1926.

As you will be aware, under this Act assistance cannot be given in the case of a house or building to which any historical, architectural or artistic interest attaches if the proposed works would destroy or seriously diminish that interest, and special attention was drawn in Circular No. 756 to the importance of seeing that works should be so carried out as not to impair the appearance of cottages or to detract from the amenities of the district.

To secure this end it is clearly desirable that advice and guidance should be available from those who have expert knowledge and experience in this class of building. Architects and others interested in the matter have been anxious to give their help in this work, and the Council for the Preservation of Rural England, in conjunction with the Royal Institute of British Architects, have now set up panels covering all parts of England and Wales which will be available for giving advice—

- (1) to owners who want the best technical assistance in improving their cottages without spoiling their appearance, and
- (2) to Local Authorities who want some assurance that the proposed reconditioning works will not spoil the picturesque appearance or destroy the historical character of the cottages.

As stated above, no charge will be made for such advice, but applicants will be expected to defray any travelling expenses which may be incurred.

The panels which have been constituted for the purpose described above have expressed a willingness to assist Local Authorities and others in the general preservation of the amenities of rural areas, not only in connection with the Housing (Rural Workers) Act, but also in connection with town planning schemes; and Local Authorities and developing owners can advantageously avail themselves of this assistance. As the Minister has

emphasised from time to time, the best results are likely to be obtained in friendly co-operation between Local Authorities and land-owners and developers. Many of the difficulties which occur would be obviated if there were consultation at the earliest stage of proposals, a better understanding of each other's points of view, and more knowledge of how much can be done, with due regard to finance and private interests, to avoid development which may be a disfigurement.

A list of Associations and Societies affiliated to the Royal Institute of British Architects is appended. Those wishing to make use of the help offered by the panels should communicate with the Convener of the panel for the area concerned or, where no Convener is indicated in the list, with the Secretary of the nearest affiliated Association or Society, who will at once put them in touch with the appropriate panel.

I am, Sir,
Your obedient Servant,
E. TUDOR OWEN,
Assistant Secretary.

The Clerk to the Authority.

BERKSHIRE, BUCKINGHAM AND OXFORD ARCHITECTURAL ASSOCIATION.

Hon. Secretary : H. S. Stribling, Esq., 65-67, High Street, Slough, Bucks.

BIRMINGHAM ARCHITECTURAL ASSOCIATION (WARWICK, STAFFORD, SHROPSHIRE, HEREFORD AND WORCESTER).

Secretary : Owen W. Thompson, Esq., F.C.A., 11, Waterloo Street, Birmingham.

DEVON AND CORNWALL ARCHITECTURAL ASSOCIATION.

Hon. Secretary : John Challice, Esq., 7, Bedford Circus, Exeter.

Hon. Secretary and Convener of Panel : Lewis F. Tonar, Esq., L.R.I.B.A., 16, Bedford Circus, Exeter.

ESSEX SOCIETY OF ARCHITECTS.

Hon. Secretary : D. N. Martin Kaye, Esq., A.R.I.B.A., Pantiles, Boston Avenue, Southend-on-Sea.

HAMPSHIRE AND ISLE OF WIGHT ARCHITECTURAL ASSOCIATION.

Hon. Secretary and Convener of Panel : A. L. Roberts, Esq., F.R.I.B.A., The Castle, Winchester, Hants.

LEICESTER AND LEICESTERSHIRE SOCIETY OF ARCHITECTS (LEICESTER AND RUTLAND).

Hon. Secretary : C. F. McL. Keay, Esq., 6, Millstone Lane, Leicester.

LIVERPOOL ARCHITECTURAL SOCIETY (PART OF LANCASHIRE, PART OF CHESHIRE, WHITCHURCH (SALOP), FLINT, DENBIGH, CAERNARVON, ANGLESEY, MERIONETH AND MONTGOMERY).

Hon. Secretary : F. X. Velarde, Esq., 15, Tithebarn Street, Liverpool.

Hon. Secretary and Convener of Panel : Hastwell Grayson, Esq., F.R.I.B.A., 606, Royal Liver Building, Liverpool, and Newton Green, Chester.

MANCHESTER SOCIETY OF ARCHITECTS (WESTMORLAND, PART OF LANCASHIRE AND PART OF CHESHIRE).

Hon. Secretary : S. A. Gradwell, Esq., A.C.A., 64A, Bridge Street, Manchester.

NORFOLK AND NORWICH ASSOCIATION OF ARCHITECTS.

Hon. Secretary : E. W. B. Scott, Esq., 23, Tombland Street, Norwich.

NORTHAMPTON, BEDFORD AND HUNTINGDON ASSOCIATION OF ARCHITECTS.

Hon. Secretary : C. Croft, Esq., F.S.I., 9, Gold Street, Northampton.

Hon. Secretary and Convener of Panel : S. Harris, Esq., F.R.I.B.A., 9, Gold Street, Northampton.

NORTHERN ARCHITECTURAL ASSOCIATION (NORTHUMBERLAND, CUMBERLAND, DURHAM AND COUNTY BOROUGH OF MIDDLESBROUGH).

Hon. Secretary : R. N. Mackellar, Esq., Pilgrim House, Pilgrim Street, Newcastle-on-Tyne.

NOTTINGHAM AND DERBY ARCHITECTURAL SOCIETY (NOTTINGHAM, SOUTH DERBY AND SOUTH LINCOLN).

Hon. Secretary : H. H. Goodall, Esq., 46, Bridlesmith Gate, Nottingham.

Hon. Secretary and Convener of Panel : W. Brandreth Savidge, Esq., A.R.I.B.A., Bromley House, Angel Row, Nottingham.

SHEFFIELD, SOUTH YORKSHIRE AND DISTRICT SOCIETY OF ARCHITECTS AND SURVEYORS (NORTH DERBY, NORTH LINCOLN AND SOUTH YORKSHIRE).

Hon. Secretary : H. B. S. Gibbs, Esq., A.R.I.B.A., 15, St. James Row, Sheffield.

Hon. Secretary and Convener of Panel : W. G. Buck, Esq., F.R.I.B.A., Shrewsbury Chambers, Campo Lane, Sheffield.

SOUTH EASTERN SOCIETY OF ARCHITECTS.

Hon. Secretary : R. Goulburn Lovell, Esq., St. Moritz, The Upper Avenue, Eastbourne.

SOUTH WALES INSTITUTE OF ARCHITECTS (GLAMORGAN, BRECKNOCK, RADNOR, CARDIGAN, PEMBROKE, CARMARTHEN AND MONMOUTH).

Hon. Secretary : Ivor P. Jones, Esq., 6-7, St. Johns Square, Cardiff.

Hon. Secretary and Convener of Panel : T. Alwyn Lloyd, Esq., F.R.I.B.A., 6, Cathedral Road, Cardiff.

WESSEX SOCIETY OF ARCHITECTS (GLOUCESTER, WILTSHIRE, SOMERSET AND DORSET).

Hon. Secretaries : H. E. Todd, Esq., A.R.I.B.A., 29, Orchard Street, Bristol, and H. F. Trew, Esq., L.R.I.B.A., Burleigh House, Nettleton Road, Gloucester.

LEEDS AND WEST YORKSHIRE SOCIETY OF ARCHITECTS.

Hon. Secretary : Joseph Addison, Esq., M.C., 62, Woodhouse Lane, Leeds.

Hon. Secretary and Convener of Panel : F. L. Charlton, Esq., A.R.I.B.A., 21, Bond Street, Leeds.

YORK AND EAST YORKSHIRE ARCHITECTURAL SOCIETY (YORKSHIRE EAST RIDING AND NORTH RIDING).

Hon. Secretary : R. Jackson, Esq., Waverley House, 39, Micklegate, York.

Hon. Secretary and Convener of Panel : J. M. Dossor, Esq., F.R.I.B.A., Waterloo Chambers, Alfred Gelder St., Hull.

CAMBRIDGESHIRE.

Hon. Secretary and Convener of Panel : H. C. Hughes, Esq., M.A., A.R.I.B.A., Tunwells Court, Trumpington Street, Cambridge.

SURREY, MIDDLESEX, HERTFORD AND SUFFOLK.

The Secretary,

The Royal Institute of British Architects,
9, Conduit Street, London, W. 1.

or application may be made to :—

The Secretary,

The Council for the Preservation of Rural England,
17, Great Marlborough Street,
Regent Street, London, W. 1.

Telephone : Gerrard 4744.

CIRCULAR 1334

To Housing Authorities and County Councils (England and Wales).

22nd May 1933.

SIR,

HOUSING (FINANCIAL PROVISIONS) ACT, 1933.

1. I am directed by the Minister of Health to invite the attention of local authorities to the Housing (Financial Provisions) Act, 1933, which received the Royal Assent on the 18th May.

2. *Termination of subsidy under the Housing (Financial Provisions) Act, 1924.*

Section 1 of the Act abrogates the Minister's power to make contributions under the Housing, etc., Act, 1923, and the Housing (Financial Provisions) Act, 1924, in respect of houses not provided in pursuance of proposals submitted to him before the 7th December, 1932.

Under the proviso to section 1, however, the Minister is empowered, subject to the approval of the Treasury, to treat as though they had been submitted before the 7th December, 1932, proposals which though not actually so submitted had been prepared and were substantially ready for submission before that date. Any local authority who consider that their proposals (for providing or promoting the provision of houses) are entitled to consideration under this proviso should submit their application supported by full particulars of the grounds on which it is based before the 30th June next. The Minister will then in consultation with the Treasury proceed to the approval of such applications as are found to fall within the limits of the Act.

3. Outstanding general approvals.

In a limited number of cases approvals for subsidy under the Act of 1924 which have been given by the Minister over twelve months ago have not yet been acted upon by the local authorities concerned, and I am to request that any authority holding such an approval will forthwith inform the Minister of the action which it is proposed to take. In the absence of such a communication within the next six weeks the approval will be regarded as cancelled.

4. Review of rates of subsidy.

In respect of the review of the rates of subsidy required by the Housing Acts to be made after 1st October, 1933, it is contemplated that houses otherwise eligible and completed by the 31st March, 1934, under the Housing Act, 1924, will receive subsidy at the present rate.

5. Future Supply of Working Class Houses.

For the supply of houses for letting to the working classes, it is anticipated that, with the present re-establishment of more normal conditions, economic forces, operating in a free field, will secure a large volume and variety of production at competitive rents, and that a great number and diversity of persons and organisations will play their part; private builders, housing companies, public utility societies, finance societies and private investors will, it is hoped, all take a share in the ownership of working class houses.

6. There are two matters in which local authorities may be able to facilitate the erection of working class houses by private enterprise. (1) In many instances the local authority have in their possession land originally acquired for housing or other purposes which can be put at the disposal of private enterprise on reasonable terms. (2) In considering the standard of the roads to be provided on working class estates, the local authority can, without sacrificing any of the space between opposed frontages, reduce to the minimum permissible by the traffic needs the width of road to be fully surfaced. In some instances also it may be reasonable to be satisfied with a lower standard of road construction.

7. Guarantees to Building Societies (a).

Many of the agencies of private enterprise will have available the resources necessary to provide new houses. Section 2 of the Act, which relates to guarantees by local authorities and county councils of advances made by building societies in regard to the provision of new houses, is designed to provide an additional supply of finance on easy terms for those builders and investors who require it. The proposals originate in an offer made by the building societies to make their large financial resources available on favourable terms to private builders and investors willing to undertake the provision of houses for letting to the working classes and will, it is hoped, prove one

(a) The term " Building Societies " is used throughout this Circular as including Societies incorporated under the Building Societies Acts, 1874 to 1894 (2 Halsbury's Statutes 133, 158), or the Industrial and Provident Societies Acts, 1893 to 1913; 9 Halsbury's Statutes 720, 766.

important means of facilitating the return of private enterprise on a large scale to the provision of such houses.

The new enactment takes the form of an extension of section 92 (1) (b) of the Housing Act, 1925. That section enables local authorities or county councils to guarantee advances made by a building society for the provision of houses.

The new provision enables the Minister, where houses are provided to let to persons of the working classes, to share equally with the local authority and the building society the risk involved by making advances up to 90 per cent. of the valuation in lieu of the limited advances (70 per cent. of the valuation) which would, apart from this special arrangement, be made by the building society. The liability of the authority is thus in effect limited to one-third of any excess advance.

Under the scheme embodied in section 2 of the Act, the bulk of the risk of making advances is taken by the building societies, and in these circumstances the Minister would think it reasonable that local authorities should, ordinarily, accept and act on the valuation of the houses made for the society concerned, thus avoiding the expense and delay of a double valuation.

County councils have the same power as other local authorities under the Act, and references to the local authority throughout this Circular are intended to include references to the county council unless the context otherwise requires.

8. Societies belonging to the National Association of Building Societies have undertaken to make advances under the new scheme for a period of 30 years (which is at least ten years longer than the usual period) at rates of interest which are 1 per cent. below their prevailing rates, subject to a minimum rate of 3 per cent. For the present, therefore, the rates applicable to such advances will be $4\frac{1}{2}$ per cent. in London and the southern counties and 4 per cent. elsewhere.

It should be emphasised that the new provisions are limited to the building, or acquisition before occupation, of new houses intended to be let to persons of the working classes. The Government's object is to secure the provision of small houses at reasonable rents, and local authorities therefore should satisfy themselves that the cost of any houses to which it is intended to apply the new provisions will be low enough to allow of rents within the capacity of members of the working classes.

9. The Minister will have no power to approve proposals for the erection of houses or flats of less than the minimum dimensions prescribed by section 92 (2) of the Act of 1925, and in view of the Government's object as stated in the preceding paragraph he will not normally be prepared to approve proposals for the provision of houses of a larger superficial area than 800 feet (700 feet in the case of two-bedroomed houses). The proviso to section 2 of the Act requires that unless the Minister's special dispensation has been obtained the number of the houses to be provided on any particular site shall not exceed the rate of 12 to the acre.

10. Attention is drawn to the terms of the Circular issued by the Local Government Board on the 2nd September, 1911, in regard to the insertion of the fair wages clause in contracts in which local authorities are interested. The Minister is confident that in considering proposals submitted under the Act local authorities will endeavour to secure that effect is given to the principles of that Circular.

11. It is requested that the local authority, in submitting proposals under section 2 of the Act to the Minister, will follow as closely as possible the form contained in Part I of the Appendix to this Circular. That form embodies the conditions prescribed by the Statute and certain other conditions which experience of the operation of section 92 (1) (b) of the Act of 1925 has shewn to be desirable.

12. A model form of guarantee has been prepared in consultation with the building societies and is printed in Part II of the Appendix. It is requested that in the absence of special circumstances the model should be

used, and that no substantial departure from the form should be made without prior consultation with the Department. It will be observed from the model that the council's liability under the guarantee will cease when the amount of the advance has been reduced by repayments to 45 per cent. of the valuation.

If there should be default and the Building Society exercise their power of sale, the amount to be deducted from the principal and interest owing in order to arrive at the "deficiency" will be the net proceeds of sale, that is, the proceeds of sale less the costs involved.

13. The Minister, when approving the local authority's general proposals, will undertake to reimburse the authority to the extent of one-half of any loss necessarily sustained by them arising out of guarantees given under the section in accordance with the terms of the approved proposals, and, provided that those terms are observed, it will not be necessary for the authority to submit further specific proposals for approval. The Minister, however, will require to be furnished at the 31st March, 30th June, 30th September and 31st December of each year with a progress return in the form contained in Part III of the Appendix to this Circular shewing the action taken by the authority under the approved proposals.

Before meeting any claim for reimbursement in accordance with his undertaking, the Minister would require to be satisfied that the local authority had taken all reasonable steps to restrict their liability under the guarantee to the minimum.

14. It is important that the local authority should endeavour to secure, so far as possible, that the houses to be provided are well laid out and of good design, and attention is drawn to the duty which is laid on local authorities by section 38 of the Housing Act, 1930, to have regard to the beauty of the landscape or countryside and the other amenities of the locality. Local authorities who do not themselves employ an architect should bear in mind that it is open to them to seek the advice of the advisory panels which have been set up by the Council for the Preservation of Rural England with the help of the Royal Institute of British Architects and its allied societies; and all local authorities are advised to draw the attention of builders and investors to the advantages to be derived from the employment of qualified architects to design the houses.

15. The Minister considers that local authorities will find it useful to call as soon as possible a conference of local builders, representatives of building societies and other persons interested (including any local public utility societies) in order to explain to them the provisions of the Act. (In a few instances it may be desirable that the conference should be called by the county council, but normally it will, no doubt, be more convenient that it should be called by the local authority.) The local authority should take the opportunity to make it clear that, if houses in sufficient numbers and of suitable types are provided by private enterprise for letting to the working classes, the local authority will confine their own efforts to slum clearance and the rehousing of persons displaced from slums. At the same time it should be pointed out that the local authority will remain responsible for the provision of necessary houses in their district if private enterprise does not provide them. It is suggested also that the authority should place before the local builders or public utility societies the information at their disposal as to the need for houses in the district.

16. The representatives of the building societies and the National Federation of House Builders have assured the Minister of their desire to act in close co-operation with the Minister and with the local authorities, and the Minister is confident that he can rely on the whole-hearted support of the county councils and the local authorities in the administration of the new proposals.

Recommendations of Committee on Local Expenditure.

17. The Minister desires, as he intimated in Circular 1311, to draw attention to some matters mentioned in the Report on Housing made by the Committee

on Local Expenditure in England and Wales (Cmd. 4200). In paragraphs 88 to 97 the Committee deal with questions of—

- (1) consolidation of subsidies,
- (2) management and allocation of accommodation,
- (3) means of tenants, and
- (4) the sale of houses and revision of rents.

18. In regard to the first of these, the Minister understands that the Association of Municipal Corporations is making enquiries with a view to submitting proposals for his consideration.

19. On the second, the Minister desires to endorse the statement of principles made by the Committee in the following terms :—

(1) that subsidies should not be wasted by being given to those who do not need them ;

(2) that in present financial circumstances every reasonable endeavour should be made to increase the revenue obtainable or to reduce the loss arising from housing estates, by requiring tenants who can afford it either (a) to pay higher rents or in some cases to buy their houses and so release public capital for other purposes, or (b) to vacate their houses, which would thus become available either for sale in the open market or for accommodating poorer workers who are unable to provide for themselves, and

(3) that accommodation should not be wasted, as happens, for example, where a three-bedroomed house is allocated to a couple without children or with only one child, or where such a house continues to be occupied by parents whose family has left them.

20. In regard to the third, the Minister is frequently in receipt of statements or suggestions of the misuse of accommodation belonging to local authorities and its occupation by persons of means adequate to provide for their own housing needs without the assistance of subsidy. The Minister has no means of checking the accuracy or otherwise of statements of this kind, and the management of houses provided by local authorities is properly vested, under the Housing Acts, in the local authorities themselves. He has, however, taken occasion in recent Annual Reports to draw the attention of the local authorities to the suggestions and to the importance of ensuring that subsidies, whether provided by the taxpayer or the ratepayer, do not benefit persons who do not require them.

It may well be that the circumstances of a family which justified the assistance of a subsidy at the time of their admission as tenants have changed by an alteration in the size of the family or of its resources. It is open to a local authority in such a case to effect transfers as between houses of varying rents in their possession, or, if the tenant does not desire to change his present residence, to charge him an economic rent. In regard to houses subsidised under the Act of 1924, this course will provide means for a reduction of rents to persons whose resources have decreased since their acceptance as tenants, or who are hard put to it to meet the council's standards of rents.

21. The question of the sale of houses is more difficult. The present need is to increase, as far as may be, the supply of houses available for letting at moderate rents to persons of the working classes. The Minister would not think it desirable, in the absence of an express demand from the tenant, that houses of the size recently erected under the Act of 1924 should be sold to their occupiers by the council. The same considerations do not apply in the same degree to the larger houses erected under the Act of 1924, and particularly to the houses erected under the earlier Acts of 1919 and 1923, and in these cases the Minister feels that he can safely endorse the recommendation of the Committee that local authorities should make widely known the facilities for purchase which are described in the Report of the Committee.

I am, Sir,

Your obedient Servant,

H. W. S. FRANCIS,
Assistant Secretary.

APPENDIX—PART I. (See paragraph 11.)

HOUSING (FINANCIAL PROVISIONS) ACT, 1933.

.....Council of
County of

I am directed by the Council of
 to apply for the Minister's approval to the following proposals of the Council for
 guaranteeing advances under Section 2 of the Housing (Financial Provisions) Act,
 1933 :—

1. These proposals extend to houses to be let to persons
 of the working classes, the inclusive cost per house not exceeding £
2. The guarantees will (as required by Section 2 of the Act) in no case extend
 to more than two-thirds of the principal of and interest on the amount by which
 the sum to be advanced by the building society exceeds the sum which would
 normally be advanced by them without any guarantee, namely seventy per
 cent. of the valuation.
3. The rate of interest at which the advances will be made will not exceed
 per cent. per annum.
4. The area of the houses will not be less than the statutory areas fixed by
 Section 92 (2) of the Housing Act, 1925, and will not exceed 800 superficial feet
 in the case of a three-bedroomed house and 700 superficial feet in the case of
 a two-bedroomed house.
5. Unless the Minister's special approval or dispensation has been obtained—
 (a) the density of the houses on any particular site will not exceed 12
 to the acre ;
 (b) each house will contain a fixed bath ;
 (c) the period of all loans in respect of which guarantees are to be given
 will be 30 years.
6. The loans in respect of which guarantees are to be given will not in any
 case exceed 90 per cent. of the mortgagor's interest in the property as assessed
 after a valuation made by the building society in agreement with the Council.
7. The model form of guarantee printed as Appendix II to the Minister's
 Circular No. 1334 will be followed.
8. Before giving a guarantee the Council will satisfy themselves that the
 houses to which the guarantee relates comply with the terms of the approved
 proposals.
9. Quarterly returns of progress substantially in the form set out in
 Appendix III to that Circular will be duly furnished at the end of each quarter.

APPENDIX—PART II. (See paragraph 12.)

MODEL FORM OF GUARANTEE.

THIS GUARANTEE is made the day of
 One thousand nine hundred and
 BETWEEN THE
 (hereinafter called " the Authority ") of the one part and THE
 BUILDING SOCIETY incorporated under the Building
 Societies Acts, 1874 to 1894 (hereinafter called " the Society ") of the other part.

WHEREAS by a Mortgage (hereinafter called " the Mortgage ") bearing the
 date mentioned in the first column of the Schedule hereto the property which is
 shortly described in the second column of the said Schedule is mortgaged to the
 Society to secure payment to them by
 of (hereinafter called " the Mortgagor ")
 of the principal sum mentioned in the third column of the said Schedule with interest
 thereon at the rate of per centum per annum and the Mortgage contains
 a covenant by the Mortgagor to repay to the Society the said principal sum together
 with interest thereon by means of equal [monthly] payments of £ during
 a period of thirty years commencing on the day of
 19 , the first of such [monthly] payments to be made on the day of

Date of Mortgage.	Property mortgaged.	Amount of Loan.	Assessed Value.	Additional Sum.
1	2	3	4	5

APPENDIX—PART III. (See paragraph 13.)
HOUSING (FINANCIAL PROVISIONS) ACT, 1933—(Section 2).
Council of the
in the County of
PROGRESS RETURN.

Mortgagor (name, address and description).	Building Society (name and address).	Particulars of houses in respect of which guarantees have been given during the quarter.				Particulars of guarantees.				
		Houses on each site.			Assessed value of house (average for each type).	Weekly rent proposed (exclusive of rates) (average for each type).	Superficial area (sq. ft.) (average for each type).	Type.	Number.	Amount advanced by Building Society in respect of houses on each site.
		Name and description of site.								Amount guaranteed by Local Authority.
								A2		
								A3		
								A2		
								A3		
								A2		
								A3		
Total of houses guaranteed since passing of the Act		since	...	...	The houses to which the above quarterly return applies comply with the proposals approved by the Minister.					

.....
Clerk of the Council.

NOTE.—Particulars already reported in a previous Quarterly Return need not be repeated unless they need amendment in which case full particulars should be given, with a reference to the earlier Return for which the new particulars are to be substituted.

CIRCULAR 1539.

To Housing Authorities (England and Wales).

MINISTRY OF HEALTH,
Whitehall, S.W. 1.
7th May, 1936.

SIR,

HOUSING ACT, 1935.

I am directed by the Minister of Health to refer to Memorandum B enclosed with Circular 1,500 A or 1,500 B on the Housing Act, 1935 (dated 22nd October, 1935) and the later Circular 1507 (dated 19th November, 1935) and to state that he has been considering the further steps which will require to be taken in order to bring into operation the whole of the overcrowding provisions of the Act of 1935.

The Local Authority will be aware that the operation of the Act depends upon the fixing of appointed days which, when fixed by the Minister, determine the date from which particular overcrowding provisions take effect in any area. The "appointed day" is defined in Section 97 of the Act of 1935 as meaning "such day as the Minister may appoint and the Minister may fix different days for different purposes and different provisions of this Act and for different localities." The fixing of an appointed day is provided for in various Sections of the Act:—

(a) Under Sections 3, 4 and 8, the appointed day is the date after which overcrowding may constitute an offence.

(b) Under Section 6 the appointed day is 6 months before the date by which a notice in the prescribed form must be inserted in every rent book.

(c) Under Section 68 the appointed day is the date from which any bye-laws under Section 6 of the Act of 1925 relating to the number of persons permitted to live in a house cease to have effect. This will naturally be the day from which the statutory standard comes into operation in place of the bye-law standard, i.e., the appointed day will be the same date as the appointed day under Section 3.

The pivotal date is that from which overcrowding is to constitute an offence. The date to be fixed for this purpose must be one which will be based on the actual state of affairs in the particular district, and, in the Minister's opinion, the two most relevant considerations are the extent of overcrowding as disclosed by the survey and the time likely to elapse before a substantial amount of that overcrowding can be remedied.

The final date fixed by the Minister for the submission to him of the report on the survey is the 1st June, 1936, but the Minister has already received a considerable number of reports and statistical returns in the Form C set out in Memorandum B and the excellent progress which has been made by these Local Authorities has been of great assistance to the Minister in his consideration of the next steps in the campaign against overcrowding.

These reports indicate that in a comparatively small number of districts overcrowding is acute, but that in many districts it can be abated by the provision of such a number of houses as need not involve a long building programme. The advantages of preventing fresh overcrowding for the future, as well as the advantages of abating that which now exists afford very strong reasons for grappling forthwith with a problem of this kind, wherever that course is practicable, and the Minister has no doubt that all Local Authorities who are able to do so will wish to bring the Act into active operation at the earliest possible date.

After consultation with the Associations of Local Authorities the Minister has decided therefore, subject to consideration of any representations which may be received from individual Local Authorities, to fix the 1st January, 1937, as the appointed day under Sections 3, 4, 8 and 68, in the case of all Local Authorities whose survey under Section 1 of the Act discloses a total

number of overcrowded families which is either under a hundred or is less than 2 per cent. of the total number of working-class houses in the district.

The Minister will be prepared also to consider applications from Local Authorities whose overcrowding falls outside these limits for the same date to be fixed for their area, and he may himself find it necessary to suggest the fixing of this date for such an Authority in order primarily to secure that "islands" in which overcrowding will not be an offence are not left in a large area in which overcrowding will be an offence.

Accordingly in the absence of any representations before the 1st June from a Local Authority whose problem falls within the above limits the Minister proposes to fix the 1st January, 1937, as the appointed day for this purpose. He will be glad to receive also before the 1st June any applications from Local Authorities whose problem does not fall within these limits but who desire this date to be fixed for their district. In those districts where overcrowding is acute and the problem one of considerable magnitude, the Minister recognises that a longer period will be necessary before the appointed day can be fixed, and he will be prepared to consider proposals made by the individual Local Authorities in the light of the knowledge of their local difficulties. The Minister will be glad to receive such suggestions at as early a date as is practicable, and not later than the 1st of July.

In fixing the 1st January, 1937, as the earliest date for which overcrowding should constitute an offence, the Minister has had in mind two points :

(1) that the intervening period will allow Local Authorities to put in hand, if not to complete, at any rate a portion of the accommodation necessary for the abatement of overcrowding, and thus to shorten the period between the appointed day and the actual abatement of existing overcrowding.

(2) that the appointed day from which overcrowding is to constitute an offence must not be fixed until adequate means have been taken to inform the public in the district as to the circumstances in which an offence will arise.

The most important single factor in this latter connection will be the entries which are required to be made in rent books under Section 6 of the Act containing a summary of the provisions of the Act and a statement of the permitted number of persons in relation to the houses. It is desirable that all these entries should be inserted by the date from which offences may occur. The Minister accordingly proposes that when fixing the appointed day under Section 3 for any particular area he will at the same time appoint a day six months earlier as the appointed day under Section 6 for that area. In view of the fact that rent books are usually drawn up to run from the 1st January and that there are general advantages in making any change date from the beginning of a new year, the Minister proposes that where under the arrangements already described in the earlier paragraphs the appointed day under Section 3 is to be the 1st January, 1937, the appointed day under Section 6 should be the 1st July, 1936.

Under Section 6 (2) of the Act it is the duty of the Local Authority, upon the application of the landlord or of the occupier of a dwelling-house, to inform the applicant in writing of the number of persons constituting the permitted number in relation to the house. To perform this function it will be necessary for the Local Authority to measure the rooms in that house, and if the Authority are to be in a position to meet any request for information without delay they will probably find that on the whole it will be more advantageous to undertake systematic measurement of the bulk of, if not of all, the working class houses in their area than to delay measuring until a request is received. Each Local Authority will already have measured the overcrowded houses. Some Local Authorities have, in fact, already measured all the houses, and others are now engaged on the task.

The Minister does not anticipate that for those districts for which the 1st January, 1937, is fixed as the appointed day for the purposes of Section 3

the task of measuring will impose any difficulties which will outweigh the advantages of fixing an early date for the prevention of overcrowding.

The statutory obligation by the Local Authority will be discharged by this action, but the Minister hopes that each Local Authority will appreciate the importance in this matter of exercising widely the powers which have been given them under Section 7 of the Act to publish information for the assistance of landlord and occupiers as to their rights and duties under the provisions of the Act which relate to overcrowding.

Pending an offer of suitable alternative accommodation protection is afforded by the Act to those who are living under overcrowded conditions on the appointed day, but fresh overcrowding in general renders persons liable to penalties unless licences have been obtained from the Local Authority. For the first time a statutory standard of overcrowding is being applied, and no one will appreciate more than the Local Authority the advantages of preventing rather than punishing the commission of offences. To this end it will be necessary therefore to ensure that owners and occupiers are made aware of the dates fixed and of the obligations which follow therefrom. In the Minister's opinion very much can be done to secure the object of bringing the Act into operation effectively and without friction by the dissemination of full information during the time which elapses before overcrowding becomes an offence. The Minister hopes that each Local Authority will give this question their serious consideration and take such action as is appropriate to the circumstances of their district. The manner of making public the necessary information will be a matter for each Local Authority to decide, but it appears to the Minister that whether or not pamphlets, circulars or press notices are used for this purpose, it is desirable that notices should be printed and exhibited in the usual places drawing attention to the fixing of the appointed days, and stating that further information can be obtained from the offices of the Local Authority.

The next step which the Local Authority should consider is that of the provision of houses. The Local Authority will not be able to require the abatement of existing overcrowding until they are in a position to offer suitable alternative accommodation, and the more quickly such proposals can be executed the sooner will the Local Authority be able to remedy existing conditions without hardship or inconvenience. It may be that in some districts the calls which rehousing consequent upon slum clearance is making upon the available resources of the building industry will render it impossible to put in hand in the near future more than a small proportion of the total programme for the abatement of overcrowding. In many districts, however, the slum clearance programme is well on its way to completion, or the total amount of work to be done under slum clearance and for the abatement of overcrowding is not more than can be effected by a single building contract: in many rural districts in particular, where the total programme is made up of many small programmes scattered over a number of different parishes, there are clearly advantages in building at one and the same time the houses required in each parish for the two programmes, now that the total figure is known.

REHOUSING PROPOSALS.

In framing their rehousing proposals the Local Authority will take careful note of the information they now have available as to the housing conditions and housing needs of their district. The completed Forms C not only serve to disclose the actual overcrowded families, but also afford a valuable guide to the general housing conditions so far as the extent of accommodation for each family is concerned. While it is the duty of the Local Authority to see that each overcrowded family is provided with suitable accommodation in which it will not be overcrowded, it does not follow that the new accommodation which it may be necessary to provide should be determined solely with regard to the needs of the families found to be overcrowded at the time of the survey. The overcrowding of a particular family may be abated in

various ways other than the direct provision by the Local Authority of a new house for that family. For example, it might be abated by the finding of alternative accommodation for sub-tenants (so increasing the amount of accommodation at the disposal of the overcrowded family) or by obtaining the removal of the overcrowded family to a suitable existing house whether belonging to the Local Authority or to a private owner.

In paragraph 17 of Memorandum B the Minister indicated how from the completed Forms C the Local Authority could make their first rough estimate of the accommodation required to abate overcrowding. As is also stated in that paragraph, this rough estimate will usually be sufficient to form the basis of the general rehousing proposals which are required to be submitted to the Minister by the 1st August, 1936, as prescribed in Circular 1507.

The Minister has no doubt that the Local Authorities will see that these necessary preliminary proposals are submitted not later than the prescribed date.

When attention is turned to specific building proposals, it will be necessary to proceed to a closer examination of the housing need, in order that the provision to be made may in type and extent coincide with the necessities of the situation. For this purpose an analysis of the particulars furnished on Form B will be necessary. The information already in the Minister's possession leads him to anticipate that this analysis will, in most districts, show that while there is a certain amount of overcrowding which can be abated by the finding of alternative accommodation for sub-tenants or, in the case of houses belonging to the Local Authority, by a re-allocation of houses or by the provision of a normal type of working-class house, there will be a residue of large and very large families for whom some extraordinary provision must be made. If there are no existing houses suitable for such families which can be made available for them, it will be necessary for the Local Authority to provide the appropriate accommodation, and in most cases this will mean that they will have to provide houses of a larger type than those which have ordinarily been provided on the estates of Local Authorities. The Minister has already pointed out in Memorandum B that the provision of cottages or flats for aged persons will often render available accommodation suitable for a normal sized family and accordingly he anticipates that the rehousing proposals put forward by Local Authorities will usually be made up of a certain number of one-bedroom houses for aged persons together with houses for large families requiring 3, 4, or more bedrooms.

As pointed out in paragraph 3 of Memorandum B the overcrowding standard set out in the Act of 1935 does not represent an ideal standard of housing, but is the minimum which, in the view of Parliament, is tolerable while at the same time capable of immediate or early enforcement. In planning their new houses the main consideration for the Local Authority to take into account is the provision of accommodation suitable and convenient for the type and size of family which will normally occupy it, and there should be no question of modifying an otherwise suitable plan merely for the purpose of increasing the number permitted by the overcrowding standard, e.g., the fact that a room of 110 feet in area would not be overcrowded under the Act of 1935 if occupied by two persons does not imply that this size is an adequate area for all bedrooms.

The standard of occupation to be adopted for rehousing under the Act of 1935 is that laid down for slum clearance schemes, namely that specified in Section 37 of the Act of 1930. This Section provides that the Local Authority "shall treat a house containing two bedrooms as providing accommodation for four persons; a house containing three bedrooms as providing accommodation for five persons; and a house containing four bedrooms as providing accommodation for seven persons."

It will be observed that this is not a complete standard of accommodation inasmuch as no mention is made of the size of the bedrooms and no indication of the standard for families consisting of more than seven persons, while it will be observed that in this section children count as whole persons whatever their age. The Minister thinks, however, that he may assist Local Authorities

in their consideration of rehousing proposals, particularly where these proposals are likely to necessitate more considerable departures from what have been regarded as the usual types of houses to be built by Local Authorities, if he indicates what appear to him to be satisfactory standards. Reference to the size of these normal types was made in Circular 1238 of the 12th January 1932. In amplification of that Memorandum the Minister would himself regard the following standards (in which by "person" is meant any individual whether adult or child) as being generally satisfactory :—

(a) the three-bedroom non-parlour type of house with a superficial area of 760 square feet or thereabouts and containing bedrooms of about 150, 100 and 80 square feet and a living room of 180 square feet, which follows the normal type being erected in large numbers by local authorities, affords adequate accommodation for a working-class family consisting of not more than five persons.

(b) For a family of six persons a three-bedroom non-parlour type of house of rather larger size than that referred to under (a) would afford adequate accommodation. The third bedroom should be made larger, and this would give on the ground floor the necessary extra living room accommodation. Suitable sizes recommended are bedrooms of 150, 120 and 100 square feet, and a living room of 200 square feet, with a total superficial area of about 850 square feet.

(c) For a family of seven persons appropriate accommodation could be provided in a four-bedroom non-parlour type of house containing bedrooms of approximately 150, 120, 100 and 80 square feet, and a living room of about 220 square feet, with a total superficial area of about 1,050 square feet. In certain cases if the Local Authority consider that the circumstances call for it, one substantial living room of, say, 180 square feet, together with a smaller parlour of, say, 100 square feet, might be substituted for the single large living room. In some cases this accommodation could be conveniently planned by arranging for a folding door between the two living rooms. By such an arrangement fuel could be economised, as one fire could often be used to warm the two rooms.

(d) For a family consisting of eight persons a four-bedroom house with a superficial area of approximately 1,130 square feet would afford appropriate accommodation. The bedrooms might be approximately 150, 120, 120 and 100 square feet in area. The living accommodation would normally take the form of a living room and a parlour.

(e) For families of more than eight persons the same general principle should be followed, that is, that a necessary increase of sleeping accommodation should be accompanied by a corresponding increase of living accommodation. Where there are nine persons in one family, appropriate accommodation might be provided in a four-bedroom house, on condition that the bedrooms were made large enough, e.g., so that the second bedroom had a minimum area of 130 square feet. In the case of very large families it may be necessary to provide five or even six-bedroom houses. Where this has to be done the Authority should, as far as possible, associate with each large house a small dwelling, e.g., one suitable for an aged couple, in such a way that at some future date the combined dwelling might be structurally altered into two separate family houses. In some areas, especially in rural districts, it may be sufficient to add a bedroom or a parlour with a bedroom over it to existing houses. Many plans of existing houses will be found to lend themselves to this arrangement. The staff of the Ministry is available to Local Authorities for consultation and guidance on such questions.

Where rehousing takes the form of blocks of flats the planning should provide that the living room accommodation in each flat increases as the number of bedrooms increases, and sufficient bedrooms should be provided to ensure that the living accommodation is not to be used for sleeping purposes except, of course, in the case of one-room dwellings. The Minister

does not think it necessary to lay down any general sizes and areas in view of the fact that the number of Authorities providing blocks of flats will be comparatively small, and it will no doubt be administratively more convenient to deal with each proposal on its merits. He thinks, however, that generally speaking Local Authorities will take the view that it is undesirable for them to provide housing accommodation in flats for large families. For the very large family which will normally contain several young children a flat is definitely much less suitable accommodation than a cottage. As far as possible, therefore, the Minister suggests that Local Authorities should rehouse such families in cottages, reserving their flats for families of more normal size. In cases where it is necessary to rehouse large families as near the centre of a town as possible, accommodation may sometimes be found for them on the existing more central cottage estates of the Authority by converting two existing cottages into one and rehousing the existing tenants of those cottages in the new flats.

In paragraph 11 of Memorandum C on the Housing Act, 1935, dealing with rehousing in blocks of flats, the Minister drew attention to the desirability of providing each flat with a private balcony. The Authority should take special steps to ensure that such balconies are safe for children. The balcony must be kept clear of objects on which children might climb. The tenants of flats should be warned of the danger of leaving children unattended on the balcony while it contains furniture on which climbing is possible.

The programme of house building which remains to be carried out by Local Authorities under slum clearance and overcrowding is substantial, and the houses to be erected by Local Authorities will thus in many districts have an appreciable effect on the architectural character of the district. While the Minister recognises the good work which has been done in many areas, he would urge upon all Local Authorities the importance of securing that the execution of their schemes is entrusted to persons of experience capable of producing not only well-built houses but dwellings of architectural merit. If the Local Authority are not proposing to employ an architect he suggests that they should consult the Ministry at the earliest stage of their proposals.

Where new cottages are to be erected in an existing village of a well defined architectural character or in rural surroundings it is particularly important that every endeavour should be made to ensure that they harmonise with their surroundings and the Minister is assured that this can usually be done without increasing the cost of the cottages.

Many Local Authorities in submitting specific housing proposals have regularly furnished the Minister with plans, elevations and specification or description of the materials to be used, and the information so obtained, in addition to assisting the Minister to deal with the particular proposals, has been of great value to the department and has enabled the experience and ideas of some Local Authorities to be passed on to others. The Minister, while not proposing to ask for this information in all cases, hopes that local authorities will continue and extend this present practice. In particular, as he desires more complete information as to the position in rural areas, he would be glad to receive plans, elevations, etc. of houses to be erected in those areas.

I am, Sir,

Your obedient Servant,

J. C. WRIGLEY.

Director of Housing and Town Planning.

The Clerk to the Authority.

CIRCULAR 1591.

To Local Authorities (England and Wales).

MINISTRY OF HEALTH,
WHITEHALL, S.W. 1.

1st January, 1937.

SIR,

I am directed by the Minister of Health to communicate with the Local Authority on the question of the action to be taken by them under the overcrowding provisions of the Housing Act, 1935.

By virtue of orders which have been made by the Minister after consultation with the Local Authorities the appointed days under sections 3, 4, and 68 of the Act have already been fixed for the greater part of the country, and as a result the overcrowding provisions will be in operation in those districts during the whole or some part of next year. As from the appointed day in their area it will be the duty of the Local Authority to see that existing cases of overcrowding are abated as soon as possible, and that no new cases arise except for special reasons and under conditions set out in a temporary license.

The discharge of these duties will call for care and thought in organisation before the appointed day and sympathy and understanding in administration after the appointed day.

Reference has been made in previous circulars to the general lines of the action to be taken by Local Authorities in advance of the appointed day, and the Minister has no doubt that Local Authorities for whose districts early appointed days have been fixed will already have completed the necessary arrangements to ensure the smooth working of the new provisions, and in particular will have provided for the following essentials:—

(1) The measuring of the rooms in working class houses for the purpose of ascertaining the permitted number for each working class dwelling, and for the furnishing of this information to landlords for insertion in the prescribed form of notice in rent-books.

(2) The combination of the information obtained by this measurement survey with the information obtained by the original overcrowding survey to build up a system of records which will not only serve as the basis for the authority's action in abating overcrowding but will show the progress made. Such a system of records is necessary to obviate the necessity for a further survey at a subsequent date and to enable the Medical Officer of Health to carry out the duties imposed upon him by the regulations made under Section 11 of the Act. The Minister wishes to stress the importance of making this system a complete record of all existing overcrowded families, and of the action taken to deal with them, of new cases as they arise by reason of births or the growing up of children and of cases licensed by the Authority.

(3) The dissemination of information to the public concerning their new duties and responsibilities and the date from which these operated, and the preparation of pamphlets for distribution to inquirers.

In previous Circulars the Minister has drawn attention to the necessity of providing adequate facilities for landlords and occupiers to obtain full information of their new duties and responsibilities.

A certain amount of information is given in the statutory notice which must be inserted in rent-books, but this notice could not, by its very nature, deal with difficult points which may arise, and that is why it contains the statement that any further information which may be desired can be obtained from the Local Authority. It is essential that this information should be forthcoming when it is requested, and inasmuch as there are sure to be the same points arising again and again it will probably be the most convenient course for each Authority to prepare, or to obtain, pamphlets covering the chief points of the overcrowding code and explaining fully points on which

difficulty is likely to arise. It appears to the Minister to be particularly desirable that it should be made clear to the tenant that the permitted number in the rent-book is the number for the whole dwelling comprised in the tenancy to which that rent-book relates and that if he lets part of his house to a sub-tenant the permitted number in his rent-book is no longer applicable. In the ordinary case the sub-tenant will have a rent-book in which the permitted number for his dwelling must be inserted by the tenant (who is the sub-tenant's landlord), and the tenant himself will be left with a dwelling in respect of which there is no separate rent-book. It will, therefore, be necessary for the tenant to ascertain from the Local Authority or otherwise the permitted number for the dwelling consisting of the part of the whole house which he himself occupies.

The Minister is confident that, when the Local Authorities come to the discharge of their new duties after the appointed day, he can rely on them to carry out this difficult task of administration with discretion and sympathy. The essence of the matter is to realise that most families are overcrowded through no fault of their own and that the object of the Act is to help such people and not to injure them.

The Act clearly provides that any occupier who is unfortunately living in overcrowded conditions is not thereby committing any offence; and there can be no question of putting pressure on him to abate the overcrowding by splitting up his family or by other drastic measures of that kind. The overcrowding is to be abated by finding him a house of a suitable size, suitably situated and suitably rented, in which he and his family can lead a healthy and comfortable life.

This does not mean that it will be necessary for the Local Authority to build a new house for each overcrowded family. There will be among the overcrowded families in most districts some small families at present living in one or two rooms for whom the ordinary type of working-class house would be suitable, if it could be made available, and some larger families for whom no existing working-class house is available.

For the latter type special steps must be taken, which may either consist of the erection of large houses of the types described in Circular 1539 or the conversion of two existing houses into one or the acquisition or leasing of existing houses which can be made suitable for working-class occupation.

The needs of the smaller overcrowded families will be met to a considerable extent by a process of redistribution. For example every Local Authority which possesses a considerable number of houses will find a certain number becoming empty week by week and available for reletting. These relettings can be so arranged that on each occasion at least one case of overcrowding will be abated. The process of redistribution will be similarly applicable to the new building operations of the Authority. Where a batch of houses have been built and let to selected families, the Authority should take such steps as are possible to see that the accommodation vacated by the families rehoused is used in such a way as to abate other cases of overcrowding. The same process will be continued as other houses are built.

In deciding on the type and accommodation of new houses the Local Authority should have particular regard to the information they now have as to the shortage or surplus of various types of houses in their district. The overcrowding survey which the Authority made has given them information as to the number and sizes of the working-class families in their district, and also as to the number and sizes of the working-class dwellings in their district. They can therefore see at once if they have a shortage or a surplus of particular types and this information will serve as a background for their own housing activities, under whatever Act they are carried out.

For example, the houses being demolished under the slum clearance scheme of a Local Authority may be two-bedroomed houses of which there is already a surplus in the district though there is a shortage of three- or four-bedroomed houses. In such circumstances it would be better housing policy to provide new replacement houses of the larger types of which there is a shortage, use them for the accommodation of overcrowded families and

arrange for the accommodation of the small families displaced from the demolished houses in existing small houses, which may be houses already belonging to the Local Authorities or other houses of this type which are available. In this way the building of new houses under the slum clearance programme of the Local Authority, the completion of which will occupy the full activities of many Local Authorities for some time, can be used to secure the abatement of overcrowding to a considerable extent.

The total number of new houses which will be required for the execution of the two programmes should thus be reduced without any detriment to the objective of securing decent and adequate houses for those now living in unfit or overcrowded houses.

In the Circular issued on 7th May, 1936 (Circular 1539), the Minister referred to the standard of occupation to be used for rehousing under the Act of 1935, and indicated what appeared to him to be satisfactory standards for types of houses not covered by the terms of Section 37 of the Act of 1930. In so far as existing accommodation is used for the abatement of overcrowding, the Minister thinks that the same standards would generally be appropriate.

In the course of their work Local Authorities will meet with a certain number of cases of special difficulty. One of these will be the overcrowded owner-occupier. The Housing Act, 1935, makes no distinction between an occupier and an owner-occupier; neither must overcrowd the house they live in. It is obvious, however, that cases involving overcrowded owner-occupiers must be treated with special care and sympathy. Where overcrowding in an owner-occupied house can be relieved by the removal of lodgers or sub-tenants, the matter is comparatively simple. Where, however, it is a case of the house being too small for the owner-occupier and his family, and the overcrowding is not likely to be relieved in a comparatively short time, e.g. by the marriage of a son or daughter, there may be no other solution but for the owner-occupier to move into a larger house. Such cases will be comparatively very few, but each will call for special consideration, and the course involving least hardship must be adopted. It is obvious that no hard and fast rules can be laid down, but there are various expedients which may sometimes help to ease a particular situation. It may, for example, occasionally be feasible for the Local Authority to purchase the owner-occupier's house and, by means of advances under the Housing Acts or Small Dwellings Acquisition Acts, assist him to become the owner of a larger house.

Another difficult case, calling for special consideration, will be the overcrowded house which is tied to a particular employment. These will mostly occur as tied cottages in agricultural areas. In such cases one possible remedy which should always be explored is the extension of the cottages to provide additional accommodation with financial assistance under the Housing (Rural Workers) Acts.

The Minister recognises that all these difficulties cannot be resolved in a moment. Local Authorities have by the Act been given considerable powers to secure the abatement of overcrowding: these powers are there in reserve but they will play no part in normal administration. Having regard to the smoothness and efficiency with which the survey of overcrowding was carried out by Local Authorities, the Minister feels sure that he can rely on them to carry out their further duties under the Act in the same spirit of sympathy and helpfulness towards those whom the Act is designed to assist. The Minister will be glad to arrange for his officers to afford to Local Authorities any advice or assistance in their power in dealing with the problems which arise in the administration of the Act.

The Housing Act, 1936.

This Act, which will come into operation on the 1st January, 1937, does not include any new legislative requirements, but merely repeals and re-enacts in consolidated form the provisions of the Housing Acts of 1925, 1930 and 1935. Owing to the numerous and important amendments made by

the Act of 1930 in the Act of 1925, and by the Act of 1935 in both the earlier Acts, the position of housing legislation had become extremely complicated, and the new Act assembles, in appropriate sequence, the various parts of the housing code previously distributed among the three earlier Acts.

The Housing Act, 1936, is divided into seven parts which, with the exception of Part I, follow generally the arrangement of the Act of 1925, with the necessary modification and expansion. Part I contains a general definition of the Local Authority for the purposes of the Act, with a reservation for the County of London. Part II relates to the repair, sanitary condition, etc., of small houses and reproduces Part I of the 1925 Act, as amended. Part III relates to clearance, improvement and re-development, and replaces Part II of the 1925 Act as amended, with the addition of the re-development provisions of Part I of the 1935 Act. Part IV reproduces the provisions of Part I of the 1935 Act relating to overcrowding. Part V relates generally to the provision of houses by Local Authorities and replaces Part III of the Act of 1925 as amended and extended. Part VI collects together the subsidy provisions of the Acts of 1930 and 1935, and the various provisions relating to Local Authority housing finances. Part VII of the Act contains a number of miscellaneous and general provisions taken from all three earlier Acts.

I am to draw special attention to Section 189, a comprehensive saving provision which secures continuity of action by enacting, *inter alia*, that anything done under the repealed enactments shall have effect as if done under the corresponding provision of the new Act, and that documents referring to the repealed enactments shall be construed as referring to the corresponding provision of the new Act.

There are also twelve Schedules to the Act. With the exception mentioned below, they merely re-enact the Schedules of the three earlier Acts. The First Schedule to the Act, however, represents an important change in arrangement. The earlier Acts contained three codes of procedure for the making of Compulsory Purchase Orders, viz.:—those relating respectively to orders made under the clearance provisions of the Act of 1930, the re-development provisions of the Act of 1935, and the general provisions of Part III of the Act of 1925. These three codes have all been collected in the First Schedule to the new Act, the first seven paragraphs of which contain the general provisions common to all three codes, while the remaining paragraphs set out the different variations.

The coming into operation of the Act of 1936 will necessitate some revision of the various forms, etc., prescribed under the earlier Acts, and the following draft Regulations have been made and issued:—

1. The Housing Act (Forms of Orders and Notices) Regulations, 1937.
2. The Housing Act (Extinguishment of Public Right of Way) Regulations, 1937.
3. The Housing Act (Overcrowding and Miscellaneous Forms) Regulations, 1937.

These Regulations will come into force early in the new year, but their issue at the present time will enable Local Authorities to revise their forms in readiness for the operation of the Act of 1936.

The Minister has also caused to be prepared Tables of Comparison showing (1) the mode in which earlier enactments are dealt with by the Act of 1936 and (2) the sections of the Act of 1936 and corresponding provisions in earlier Acts.

The above mentioned draft Regulations and Tables of Comparison have been placed on sale and may be obtained in the usual way from H.M. Stationery Office, or through any bookseller.

I am, Sir,

Your obedient Servant,

J. C. WRIGLEY.

Director of Housing and Town Planning.

The Clerk to the Authority.

CIRCULAR 1866.

To Housing Authorities (England and Wales).

MINISTRY OF HEALTH,
WHITEHALL, S.W. 1.
R.A.

8th September, 1939.

SIR,

HOUSING ACTS.**POSTPONEMENT OF WORK.**

1. I am directed by the Minister of Health to say that in view of the outbreak of war he has had under consideration the action to be taken by local authorities in relation to their normal housing work. In the case of Slum Clearance the schemes are in various stages from the earliest step of the declaration of the area to the stage when an Order has been confirmed by the Minister but the operative date is still in the future. In the case of Housing Schemes, local authorities have nearly 50,000 houses under construction whilst there are large numbers of such schemes in stages varying from the selection of a site to the acceptance of a tender for houses.

2. Local authorities have powers and duties under the Housing (Emergency Powers) Act, 1939, and the Essential Buildings and Plant (Repair of War Damage) Act, 1939, which may involve them in a considerable amount of work. At the moment it is not possible to envisage just how the normal activities of Housing Authorities will be affected by the war, but for the time being, at any rate, the Minister has decided that it is necessary to defer the holding of Inquiries into Slum Clearance Orders. Accordingly, for the present, local authorities should take no further steps in connection with Orders which have not reached the stage of local Inquiry. As regards any Orders on which the Inquiry has been held, the Minister proposes to postpone his decision or the issue of his Order unless he is satisfied on representations by the local authority that there are special circumstances which make it desirable that action on that particular Order should proceed.

3. Where an Order has been confirmed by the Minister so that it becomes the duty of the local authority to proceed with the steps which will end with the demolition of the property the Minister is of opinion that, save in exceptional circumstances, the steps taken should stop short of actual demolition. In view of the possible destruction of housing accommodation by attacks from the air, it is clearly desirable that the existing supply of accommodation should not be diminished. Questions as to the payment of subsidy which this procedure may raise will be considered later.

4. Considerations similar to those in the preceding paragraphs apply to individual demolition orders and redevelopment schemes, and similar action should be taken.

5. The postponement of the demolition of unfit property in the manner suggested will allow the provision of replacement accommodation to be deferred and to that extent the immediate building programme of the Local Authorities will be diminished. In view of the probable heavy demand on the supply of building labour and material, it may also be necessary for local authorities to curtail building for overcrowding and general needs. Generally speaking, therefore, the Minister would not be prepared for the time being to approve of the erection of further houses unless he were satisfied that there were exceptional circumstances which rendered the work of importance in the national interest, e.g., that the houses were necessary for the employees of new factories or, in agricultural districts, for agricultural workers.

6. As regards houses which are in course of construction, the Minister would be glad if local authorities would arrange with their contractors to concentrate on those houses which are in an advanced stage of construction and not to continue work on houses in an early stage or to start foundations for new houses. If a local authority have good ground for considering that

the completion of a contract would be in the national interest they should communicate with the Minister.

7. An additional copy of the Circular is forwarded for the use of the Financial Officer of the Authority, and further copies may be purchased through any bookseller or directly from His Majesty's Stationery Office at any of the addresses shown below.

I am, Sir,
Your obedient Servant,
H. H. GEORGE,
Assistant Secretary.

The Clerk to the Authority.

CIRCULAR 20.

**To Housing Authorities (England).
County Councils (for information).**

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W. 1.
January 22nd, 1946.

SIR,

1. CONVERSION OF TEMPORARY WARTIME BUILDINGS TO HOUSING USE.

1. I am directed by the Minister of Health to say that the Government have had under consideration the terms on which surplus Government property, including hutments and hostels erected for Service needs or for industrial and agricultural workers, can be made available to local authorities for housing purposes.

2. It is impossible to forecast the extent to which these temporary buildings are likely to become surplus to the requirements of the Government Departments, and, further, preliminary investigation has shown that many of them could not be satisfactorily converted for housing purposes without uneconomical use of labour and materials, which ought not to be diverted to this work if they can be more profitably used on the erection of permanent houses, or the repair and rebuilding of war-damaged houses. Subject to these considerations, and to the conditions set out below, the Minister is prepared to consider proposals from local authorities to take over temporary buildings for housing purposes.

3. In some instances, the structure and planning of the buildings will enable them to be converted at reasonable cost into temporary dwellings with accommodation comparable with that provided by the temporary houses supplied by the Government. In such cases, provided that they are sited in places where, as far as can be foreseen, temporary housing is likely to be required and to be acceptable to tenants for at least 10 years, the buildings may be transferred to local authorities on the terms and conditions explained in paragraph 4 below. The plans of conversion will be subject to the Department's approval.

4. Temporary buildings which conform with these conditions will be made available on the following financial terms :—

i. The buildings will be handed over free of charge to the local authority.

ii. *Acquisition of land—*

(a) *Land in Government ownership.*—The local authority will purchase the site of the buildings from the Government forthwith at a price to be agreed which would normally be the cost of the land to the Government.
(See also iv below).

- (b) *Requisitioned land*.—The Minister is advised that it is open to a local authority to acquire land compulsorily under Part V of the Housing Act, 1936, as amended by Section (4) (2) of the Housing (Temporary Accommodation) Act, 1944, even though the land to be acquired may be under requisition, and that by virtue of Section 40 (c) of the Requisitioned Land and War Works Act, 1945, where requisitioned land is so acquired the compensation will be adjusted in accordance with the provisions of Part VIII of that Act. The local authority may, therefore, make a Compulsory Purchase Order in respect of requisitioned land if the need arises and submit it to the Minister for confirmation in the usual way. If it is possible to acquire the land by agreement on the same price basis as if compulsory powers had been exercised, the services of the District Valuer will be available to conduct the necessary negotiations.
(See also iv below.)

- (c) *Land in the ownership of the local authority*.—Where the land was in the ownership of the local authority before being requisitioned, or where it has passed into the ownership of the local authority by virtue of action under sub-paragraph (b) above, the land will be de-requisitioned.

(iii) If there are development works on the land which have been carried out at Government expense, and those works are remunerative when the converted dwellings are removed or cease to be available for housing, an appropriate charge will then be made to the authority to cover their residual value.

iv. A local authority may be able to negotiate with the owner a lease of land which is under requisition and may prefer to do this instead of acquiring the land. The Minister will consider proposals of this kind in the same way as if the land was purchased, provided that the rent is endorsed by the District Valuer, that other conditions are satisfactory and that the term is at least 10 years. He should, however, be informed before negotiations are commenced. He will also consider any suggestion that land belonging to the Government should be leased instead of purchased.

v. The cost of conversion, which must not exceed £250 in respect of any one dwelling, will be borne in the first instance by the local authority, the period for the repayment of loans to cover the cost of the works being normally 10 years.

vi. The rents, which should be exclusive of rates and other charges, will be agreed by the Department at the outset with the local authority concerned.

vii. So long as the converted dwellings remain available for housing, and subject to viii below, the Exchequer will pay to the local authority, or the local authority will pay to the Exchequer, a fixed annual amount, to be ascertained in each case, based on the estimated deficiency or surplus, as the case may be, after taking into account :—

- (a) a fixed annual charge of £6 10s. per dwelling to cover repairs and maintenance, management, voids, etc. This charge will be subject to review after three years and to retrospective adjustment if that amount is found, in the light of experience, to be insufficient. Any such reverse charge will apply uniformly to all the local authorities by whom the scheme outlined in paras. 3-5 of this Circular is adopted.

- (b) the estimated annual loan charges on an 80 year basis on the cost of the land as approved for loan consent (or the approved rental in the case of land leased), excluding the cost to the local authority of the residual value of the development works ;

- (c) the estimated annual loan charges on the cost of conversion, as approved for loan consent ;
- (d) the agreed rents ;
- (e) an assumed annual charge on the Housing Revenue Account of the local authority of £8 per dwelling (or £6 in the case of a Rural District Council).

viii. If the dwellings remain available for housing after the expiration of the period for which loan sanction to the cost of conversion has been given, the annual payments determined in accordance with (vii) above will be adjusted accordingly.

ix. The Exchequer will be responsible for the cost of removing the dwellings at the expiration of ten years, or when they are not further required for housing purposes if they remain in use for a longer period.

x. All the transactions in respect of the converted dwellings will pass through the Housing Revenue Account of the local authority.

5. The Minister is not empowered under existing legislation to make contributions to local authorities in respect of the expenses incurred on works of this character. He proposes, however, to seek powers for the purpose by legislation which will be introduced to deal with the rate of housing subsidy during the immediate post-war years.

6. Other temporary buildings may be considered to be structurally suitable for conversion into dwellings of the standard indicated above or may be in places where, although there is an immediate housing need, this need may be met in other ways after a few years. In such cases where the temporary buildings could be adapted with a reasonable expectation of at least five years of life the Minister will consider proposals from local authorities for very simple works of conversion. The net approved expenditure on a scheme of this kind will be reimbursed to local authorities in the same way as in the case of accommodation provided for persons inadequately housed, but plans and estimates or tenders will be subject to the prior approval of the Department.

7. In other instances, local authorities may consider that urgent needs for family accommodation could be met by the use of surplus hostels or camps with the minimum amount of work to convert cubicle or dormitory blocks into bedrooms, and with common use of other buildings including kitchens, dining and recreation halls, bath and wash places, etc. Arrangements of this kind can clearly be only of a very temporary duration and can be successful only with efficient management and the employment of a nucleus of experienced staff. The Minister will consider any proposals which local authorities may wish to make, and will arrange for his officers to give all assistance possible to those local authorities who wish to prepare schemes of this kind. The buildings will be made available to the local authority free of charge. Any necessary conversion (after approval by the Department) must be undertaken by the local authority who will be required to make an agreed charge to the tenants in respect of the accommodation provided. The net approved expenditure will be reimbursed by the Exchequer as in the case of the buildings referred to in paragraph 6. It should be understood that in respect of any communal services, *e.g.*, canteen, heating, etc., the local authority must make charges to tenants which will cover the full cost of those services. No part of that cost will be accepted as a charge on the Exchequer.

8. If the premises referred to in paragraphs 6 and 7 above are requisitioned land, the requisition will be continued (subject of course to consideration of any representations for release made by the owner) and the Principal Housing Officer will authorise the Clerk of the local authority to accept transfer from the Requisitioning Department on the Minister's behalf.

9. The Minister has arranged with the Minister of Works that this Department shall be notified when temporary buildings suitable for conversion or other housing uses become surplus to the Government's requirements. The local authority of the district in which any such buildings are situated will

be given every facility for inspecting the site and the buildings, and for deciding whether conversion into temporary dwellings or other housing uses is practicable. In some cases the Minister may think it right to offer surplus properties to local authorities of other districts.

10. Schemes for conversion or other use of surplus temporary buildings should be submitted to the Principal Housing Officer in each region, who will also advise local authorities, if so requested, whether any hostels or other similar buildings in which they are interested are likely to become surplus. Unnecessary work may be avoided if the Senior Regional Architect is consulted when plans are being prepared.

2. PURCHASE OF PARTIALLY DEVELOPED LAND.

11. In some instances, requisitioned land which is now surplus has been partially developed. The local authority will be informed of any such land so that they may have an opportunity of considering whether they desire to purchase it for housing purposes. Where there are works on the land other than temporary buildings (*e.g.*, roads or other services) which might be used by the local authority the terms on which these works can be acquired by the local authority will be the subject of discussion between the authority and the Ministry of Works.

I am, Sir,
Your obedient Servant,
R. STANTON.

CIRCULAR 118.

**To All Housing Authorities (England).
County Councils (for information).**

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W. 1.
12th July, 1946.

HOUSING (FINANCIAL AND MISCELLANEOUS PROVISIONS) ACT, 1946.

SUMMARY OF THE MAIN PROVISIONS OF THE ACT, WITH EXPLANATORY
NOTES ON SECTIONS AND ON PROCEDURE TO BE FOLLOWED BY LOCAL
AUTHORITIES.

SIR,

1. I am directed by the Minister of Health to invite the Council's attention to the provisions of the Housing (Financial and Miscellaneous Provisions) Act, 1946, which received the Royal Assent on the 18th April, 1946. The main provisions of the Act are explained briefly in this Circular, and more detailed explanation is given in the Appendices, viz. :—

- Appendix I. Notes on Sections.
- Appendix II. Procedure of Local Authorities.
- Appendix III. Treasury Conditions.

General Subsidies.

2. The main purpose of the Act is to provide for Exchequer subsidies and rate contributions sufficient to enable local authorities to let at reasonable rents the houses they are now building. It is to be noted that Section 16 provides that the Minister is to review the level of Exchequer subsidies and rate contributions immediately after the beginning of December, 1946; and in introducing the Motion for the Second Reading of the Bill, the Parliamentary Secretary to the Ministry made it clear that the intention of the Government

is that subsidies shall be progressively reduced. Subsidies and contributions as fixed by the Act will, however, be payable for all houses *completed* by 30th June, 1947.

3. The subsidies are payable in respect of all houses provided by local authorities which are completed after the passing of the Act, that is, after 18th April, 1946; and in certain circumstances in respect of some houses completed before that date (*see Appendix I notes on Sections 9 and 10*). Subsidy is payable, if the Minister approves, in respect of a new house purchased by a local authority as well as in respect of one built for them.

4. The *standard* Exchequer subsidy for each house or flat pending the Minister's review, is to be £16 10s. per annum for 60 years (Section 2) and the corresponding *standard* rate contribution is to be £5 10s. per annum for 60 years (Section 5).

5. *Houses for the agricultural population.*—In certain cases, however, the standard Exchequer subsidy and the standard rate contribution will be varied. For houses provided for the *agricultural population* by non-County Borough or Urban or Rural District Councils the subsidy is to be £25 10s. per annum for 60 years (Section 3) and the corresponding rate contribution £1 10s. per annum for 60 years (Section 5), with a further £1 10s. from the County Council (Section 8) (*see Appendix II 1 (a)*).

6. *Houses in "poor" areas.*—The Minister may apply the agricultural provisions to other houses provided in a non-County Borough or an Urban or Rural District where he is satisfied that there is already an exceptionally low average rent and that expenditure by the local authority on housing at the standard rate would impose an undue burden on the district (Section 3 (2)) (*see Appendix II 1 (b)*).

7. *Additional Contribution by County Councils.*—In addition to the contributions of £1 10s. od. a year for 60 years which County Councils are required to make in the cases mentioned in paragraphs 5 and 6, the County Council, with the consent of the Minister, may make an annual contribution of any size in respect of any house provided with the approval of the Minister by a non-County Borough or Urban or Rural District Council in the county (Section 8 (2)).

8. *Houses in highly rated areas.*—Any local authority may apply to the Minister for the reduction of the rate contribution on new houses and for a corresponding increase of the Exchequer subsidy, where the average general rate poundage for the last three financial years is exceptionally high in relation to that of other comparable authorities, and the housing rate for the last financial year for which information is available is also exceptionally high. An application may be made whether the houses in question already attract the higher Exchequer subsidy or not (Section 7) (*see Appendix II 1 (e)*).

Flats on expensive sites.

9. As in previous Housing Acts special subsidies and rate contributions are provided for flats in blocks of flats where they are built on sites the cost of which as developed exceeded £1,500 an acre (Section 4 and First Schedule). The subsidy and the rate contribution both rise as the cost of the land increases. Provision is also made for the payment of a higher subsidy and rate contribution, if the Minister thinks fit, for blocks of flats containing at least four storeys (including the ground floor) in which lifts are installed. This provision is made subject to the Minister's discretion in order that he may satisfy himself about the number of flats actually served by the lifts which alone should attract the high subsidy (*see Appendix II 1 (c)*).

10. A new provision is that, where a house is provided on a site exceeding in cost £1,500 an acre as part of a scheme of mixed development of flats and houses, the houses may in certain circumstances be treated as flats for the purpose of Exchequer Subsidy and rate contribution (Section 4). The Bill as introduced contained a provision that the high subsidy appropriate to a flat should be paid on a house forming part of a mixed scheme only where the development over-all amounted to at least three storeys, including the

ground floor. This provision was omitted during the passage of the Bill as likely to prove too rigid, but where the condition is met the higher subsidy will be paid for each house. In cases where the condition is not met, either because planning requirements impose a lower density, or because a scheme is necessarily being submitted piecemeal, the Minister will be willing to consider the merits and, if satisfied, to allocate the higher subsidy to some of the houses, if not to all (*see Appendix II 1 (c)*).

Subsidence

11. Additional Exchequer assistance up to £2 per annum per house can be given where the Minister is satisfied that the cost of providing the house is substantially enhanced by measures taken to guard against subsidence. In that event an additional rate contribution equal to half the additional Exchequer assistance will be payable (Section 6).

Temporary housing accommodation in converted huts

12. The Act provides for payments to be made by the Minister to the local authority, or by the local authority to the Minister, on terms similar to those of the financial arrangements which were set out in paragraph 4 of Circular 20/46 for war-time hutments and hostels converted by local authorities into temporary housing accommodation and used for the purpose under arrangements approved by the Minister. Briefly, the provision is that the income from every house provided is to be deemed to be increased by £6 per annum in the case of a Rural District Council and £8 per annum in the case of any other local authority, and that the Exchequer will each year bear any estimated loss or take any estimated profit (Section 12).

Houses of approved non-traditional construction

13. The Minister may make capital grants in respect of houses which are constructed by a non-traditional method approved for the purposes of the section where the cost is substantially higher than the cost of a house built by normal methods (Section 17). It is the intention that grant should be made only where a particular approved system of construction promises an early and substantial addition to the output of houses. Grant is payable only where proposals are submitted before the end of December, 1947. So far grants have been promised only for the B.I.S.F. house (Circular 56/46) and for the Airey house for rural areas (Circular 86/46) and these methods of constructing houses are hereby approved by the Minister for the purposes of the section.

Contribution for agricultural cottages provided by private developers

14. Section 13 increases to £15 per annum for 40 years the maximum Exchequer contribution (previously £10 per annum) for 40 years payable under Section 3 of the Housing (Financial Provisions) Act, 1938, for houses provided by private developers for the agricultural population under arrangements made under that section after the 18th April, 1946. Any house for which this contribution is made must, if let, be let at a rent not exceeding the rent which the Council would have charged had it been provided by them. No contribution is payable for any year during the whole or any part of which the house has been occupied by a person other than the owner or a tenant. Thus subsidy is not payable in respect of a "tied" house (Section 13).

Housing Accounts

15. Section 21 amends existing legislation relating to the Housing Revenue Accounts, the Housing Repairs Accounts and the Housing Equalisation Accounts of local authorities (*see Appendix II 4*).

16. An additional copy of this Circular is enclosed for the information of the Chief Financial Officer.

I am, Sir,

Your obedient Servant,

E. A. SHARP.

The Clerk to the Authority.

APPENDIX I

NOTES ON SECTIONS.

Sections 1, 2, 3 and 4 provide for the payment of annual Exchequer contributions for 60 years in respect of each new house provided by a local authority under their housing powers which is approved by the Minister for the purposes of the Act and is completed after the date of the passing of the Act (18th April, 1946). Approval given prior to the date of this Circular to tenders for the erection of such houses will be regarded as approval of the houses for the purposes of the Act. The amounts of the Exchequer contributions are, under Section 16, liable to a reduction in respect of houses completed after the end of June, 1947.

Under Section 2, the amount of the annual Exchequer contribution ordinarily payable for each house is £16 10s., which is referred to as the "general standard amount."

Section 3 provides that, in respect of houses provided by the council of a county district (i.e., a non-county borough or urban or rural district) to meet the requirements of the agricultural population of their district, the amount of the annual Exchequer contribution is to be £25 10s., for each house, and this amount is to be known as the "special standard amount." Under sub-section (2) of this section, this special standard amount is also payable in respect of other houses provided by the council of a county district where the level of rents of houses in the district occupied by wage-earners or persons of similar economic condition is substantially below the average for the particular class of district (i.e., non-rural or rural, respectively) and the provision of the houses will, having regard to the housing expenditure of the council, impose an undue burden on their rates unless the general standard amount of the annual Exchequer contribution is increased; these conditions are similar to those that had to be satisfied before extra assistance could be given under Section 1 (3) of the Act of 1938.

In Section 4, special provision is made in respect of flats built on expensive sites costing, as developed, more than £1,500 per acre, the Exchequer contribution being graded according to the cost of the site per acre, as set out in the *First Schedule to the Act*. Additional annual Exchequer contributions of £7 per flat are provided, at the discretion of the Minister, whose lifts are installed in blocks of flats of at least four storeys, including any storey constructed for use for non-housing purposes. Under sub-section (2) of the section the subsidy payable in respect of flats may also at the Minister's discretion, be paid in respect of houses provided on an expensive site as part of a scheme for mixed development of houses and blocks of flats on the same site.

Section 5 provides that annual rate contributions shall be paid by the local authorities for 60 years for each new house in respect of which Exchequer contributions are payable under the Act. Generally, the amount of the annual rate contribution is in each case one-third of the amount of the Exchequer contribution, but where the special standard amount of the Exchequer contribution is payable, the annual rate contribution is only £1 10s. per house (which is supplemented under section 8 by an annual contribution of £1 10s. per house from the County Council). Where the additional Exchequer contribution of £7 per flat is payable in respect of a block of flats provided with lifts, the annual rate contribution otherwise payable is increased by £3 10s. per flat. (An additional rate contribution is also payable under Section 6 where additional Exchequer assistance is given under that section.)

Section 6 empowers the Minister to grant additional Exchequer assistance, up to £2 per annum per house where he is satisfied that the cost of providing a house is substantially enhanced because of the necessity for protecting the site against the risks of subsidence, and to require an additional rate contribution equal to one-half of the additional Exchequer contribution paid under the section.

Section 7 enables the Minister to approve the making of reduced rate fund contributions and to grant correspondingly increased Exchequer assistance in respect of houses provided by the local authority of any area in which the average general rate poundage for the last three years exceeds by at least one-quarter the average rate poundage for those years of all local authorities of the same class and in which for the last year for which information is available the rate necessary to meet the total rate fund contributions to the Housing Revenue Account of the local authority is at least one and a half times the average contributions of all local authorities of the same class. The additional assistance may be an amount equal to not more than one-half of the rate fund contribution which would otherwise be payable in respect of the new houses.

Section 8 provides for annual contributions from the County Council for 60 years of £1 10s. per house where the special standard amount of the Exchequer contribution (or of that contribution as increased under sections 6 and 7) is payable. Amounts

equal to these County Council contributions are to be credited to the Housing Revenue Account. Section 115 (4) of the Housing Act, 1936, is in effect repealed by Section 8 (3).

Section 9 settles the financial position in relation to houses provided under the Housing (Financial Provisions) Act, 1938, as amended by any subsequent enactments, including Section 1 of the Housing (Temporary Provisions) Act, 1944, and completed before the passing of the Act of 1946. If such houses were approved before August 3rd, 1944 (the date of the passing of the Act of 1944), contributions are payable under the Act of 1938. If they were approved on or after August 3rd, 1944, contributions are payable under the new Act of 1946. The section provides that the Minister's approval under the Act of 1938 shall be deemed to be approval for the purposes of the Act of 1946, and the Exchequer contribution of the general standard amount of £16 10s. will therefore be payable if such approval was given on or after the 3rd August, 1944. Approval of tenders for the erection of the houses will be regarded as approval of the houses for the purposes of the Act. Where, however, the local authority consider that houses provided or to be provided by them are eligible for other Exchequer contributions payable under the Act, they should make application to the Minister accordingly in order that the necessary approval for subsidy purposes may be given.

Section 10 implements certain undertakings given to local authorities who provided or completed houses during the war with the approval of the Minister, or who provided houses for the agricultural population under the emergency programme of 1943. The section provides for payment of the subsidies under the Act in respect of houses which were completed after the 31st December, 1939, otherwise than under a contract existing at that date; but the Minister is given discretion to reduce the amount of the contributions or to reduce or alter the period for which they are payable, according to the circumstances.

Section 11 relates to houses built by the North Eastern Housing Association at the request of the Minister.

Section 12 enables Exchequer contributions to be paid under arrangements similar to those set out in paragraph 4 of Circular 20/46 for the conversion into temporary housing accommodation of hutments and hostels and other similar Government war buildings.

Section 13 increases to £15 per annum for 40 years the maximum Exchequer contribution payable under Section 3 of the Act of 1938 for houses provided under arrangements made after the 18th April, 1946, by persons other than the local authority for the agricultural population, and also amends the conditions of that section so as to relate the rent which may be charged to the rent which it would be appropriate for the local authority to charge if they had provided the house and to preclude the payment of subsidy on a "tied" house.

Section 14 enables the Minister to stop the periodical payments which would otherwise be made to a person other than a local authority under the provisions of the Housing Acts specified in the *Second Schedule to the Act*, where a house has been destroyed or rendered uninhabitable by enemy action or has been demolished in connection with war purposes and has not been rendered habitable, and the Minister is not satisfied that the owner intends to rebuild or repair the house and has been unable to do so by circumstances beyond his control.

Section 15 enables Exchequer assistance to be continued where houses built by a housing association under Section 94 of the Housing Act, 1936, or by a person other than the local authority under section 3 of the Housing (Financial Provisions) Act, 1938, becomes vested in the local authority.

Section 16 prescribes arrangements for the review of the contributions payable under the Act in relation to houses completed after a date to be determined by the Minister, not being earlier than 30th June, 1947. The review is to be undertaken immediately after the beginning of December 1946. The contributions provided for by the Act will in any case be payable for all houses completed by 30th June, 1947.

Section 17 enables the Minister to make capital grants towards the cost of providing houses constructed by non-traditional methods approved by the Minister for the purposes of this section under proposals submitted to the Minister by local authorities before the 31st December, 1947, where he is satisfied that the cost of providing such houses will be substantially greater than if the houses were constructed by traditional methods.

Section 18 provides that the Minister may in certain circumstances contribute to the expenses of housing associations set up under arrangements made by the Minister for the purpose either of providing and managing houses, as housing associations normally do, or of executing work in connection with the provision of houses on behalf of a local authority.

Section 19 provides that a local authority which is entitled to Exchequer subsidy on the grounds that the houses being provided are required for the agricultural population, must reserve a corresponding number of houses for the agricultural population unless their need can be satisfied without this.

Section 20. Without prejudice to the powers of the Minister under Section 113 of the Act of 1936 to withhold or reduce Exchequer contributions in the event of a local authority's failure to make any contribution required of them under the Housing Acts, this section repeals Section 6 (4) of the Act of 1938, which makes the payment of any Exchequer contribution to a local authority conditional upon the local authority's making the appropriate general rate fund contributions.

Section 21 makes certain amendments in the existing legislation relating to the housing accounts of local authorities which are explained in Appendix II 4.

Section 22 relates to the provision of housing accommodation in the Isles of Scilly.

Section 23 deals with the expenses and receipts of the Minister under the Act.

Section 24 requires certain provisions of the Act of 1936 which are specified in the *Third Schedule to the Act* to be read as including reference to the contributions payable under the Act of 1946.

Section 25 contains definitions. The proviso to sub-section (2) relates to "duplex" houses, i.e., houses temporarily divided into two or more separate dwellings. Such houses are to be treated for the purposes of this Act as one house.

First Schedule.—See note on Section 4.

Second Schedule. See note on Section 14.

Third Schedule. See note on Section 24.

APPENDIX II

PROCEDURE OF LOCAL AUTHORITIES.

1. New houses provided by local authorities

Applications for approval to houses for the purposes of the Act should be made to the Principal Housing Officer. The following notes deal with subsidies of other than the general standard amount.

(a) *Houses provided for the agricultural population*

Houses for the agricultural population will usually form part of building proposals which include houses for other persons and for which, therefore, the general standard amount of the Exchequer contribution is payable. It will be necessary for the local authority, when applying for the Minister's approval for the purposes of the Act, to satisfy the Minister that houses to the number for which the special rate of contribution is sought are actually required for the agricultural population. Where, therefore, proposals are submitted to the Minister, the local authority should state the number which are required for this purpose and give evidence of the need on which their proposal is based.

(b) *Other houses eligible for the special standard amount of the Exchequer contribution*

The qualifications for this rate of contribution are similar to those for the special rate of £6 10s. under Section 1 of the Act of 1938. They are

(i) that the houses in the district which are occupied by wage earning workers or by persons of similar economic condition are let at rents substantially less on the average than the average of the rents of such houses in the country generally. The rental standard of comparison for a borough or urban district will be the average for boroughs and urban districts, and for a rural district the average of rural districts; and

(ii) that the provision of the houses will involve an undue burden on the district unless the Exchequer contribution is of the special standard amount.

It will be necessary for any local authority who wish to make application under this provision to furnish a summary of the information which they have obtained for the purpose of ascertaining the average rents of houses occupied by wage earning workers and persons of similar economic condition in their area, and a statement of their past and prospective expenditure for housing purposes and of their financial position generally.

The Minister proposes to consult with the County Council before agreeing to make contributions under this provision, and he will be glad if the local authority will send the County Council a copy of the application and accompanying information submitted to the Minister, and inform him that they have done so.

(c) Blocks of flats on expensive sites

As in the Acts of 1936 and 1938, provision is made in the Act for special rates of Exchequer contribution, varying with the cost of the developed site, for flats in blocks of flats built on expensive sites costing at least £1,500 per acre as developed. In providing these special rates of contribution the Act recognises the fact that the cost of erection of blocks of flats combined with the high cost of central sites, makes an increased subsidy necessary if rents are to be kept at a reasonable level. The rates of Exchequer contribution are set out in the First Schedule to the Act, and the expression "cost of the site as developed" is defined in Part I of that Schedule, which indicates the nature of some of the expenses which may be included as part of that cost and allows the inclusion of such other necessary expenses as the Minister, with the consent of the Treasury, may determine. With the consent of the Treasury, he is prepared to approve the inclusion of the following additional classes of expenditure :—

- (i) Legal expenses and arbitration costs in connection with the purchase of the site ;
- (ii) Compensation and removal expenses properly paid to displaced tenants ;
- (iii) The net cost of clearing the site and stopping existing streets and services ;
- (iv) The cost of supervision and technical fees incurred in connection with the survey of the site and the construction of roads and sewers.

In determining the amount of the expenses to be included as requisite for making the site available for the purpose of the provision of the flats, the Minister is to have regard to an estimate of those expenses submitted to him by the local authority.

Applications for approval for the purpose of the subsidies provided for flats in blocks of flats on expensive sites should be accompanied by details of the actual cost of the site, certified by the Council's Treasurer, and a detailed estimate of the expenditure requisite for making the site available for the provision of the flats, certified by the appropriate technical officer of the local authority ; a plan of the site on which the flats are to be erected should also be furnished, with a certificate by the Council's Surveyor of the area of the site and the correctness of the plan.

(d) Houses on land liable to subsidence

The additional subsidy provided under Section 6 is payable where the cost of providing the houses is substantially enhanced by the acquisition of rights of support or by measures taken for protection against possible subsidence, such as strengthened foundations. In making application for approval for the purpose of the additional subsidy the local authority should furnish to the Principal Housing Officer particulars of the additional cost on which they base their claim.

(e) Additional Exchequer assistance to local authorities of highly rated areas.

Local authorities who consider that they are eligible for the additional Exchequer assistance under Section 7 of the Act should make their application when they apply for approval to the houses for the purposes of the Act. Under the section the Minister is required to be satisfied that the local authority's average general rate poundage for the three financial years prior to the year in which they make the application exceeded by at least one-quarter the average general rate poundage for those years of all local authorities of the same class and that the rate burden of the authority in respect of housing for the last year for which the information is available is at least one and a half times the average housing rate burden for that year of all local authorities of the same class. The housing rate burden for this purpose is the rate poundage which the local authority would have had to levy in order to produce the total amount of the rate contributions which are required by the Housing Acts, to be credited to the Housing Revenue Account.

The Minister is empowered to classify local authorities as he thinks appropriate for the purpose of the comparison of the general rate poundage and housing rate burden. Normally, the classification will be by reference to local government categories, but it may be considered appropriate in exceptional circumstances to classify local authorities according to types of industry or on some other basis.

(f) Grants for approved prefabricated houses

As explained in the covering Circular, the only types of house for which grants under Section 17 have so far been promised are the B.I.S.F. house and the Airey Rural house, and those types have been approved by the Circular for the purposes

of the section. It it should be decided to approve any other type for the purposes of the section, the local authorities likely to be interested will be informed.

The method of calculating the grant will be different in the two cases. The price of the *B.I.S.F. house* is set out in Circular 56/46 and it is there explained that it is the intention of the Minister to make grants sufficient to reduce the cost to the local authority to the ruling prices in the area for comparable houses built by traditional methods. In order that the rate of grant may be determined, a local authority, when notifying the Principal Housing Officer of contracts about to be let, should submit evidence as to the ruling prices in the area for comparable traditional houses. The Minister will normally be prepared to accept for this purpose the latest approved tender price per foot super (excluding abnormals) for a traditional house of similar type and size in the area of the local authority. Where this is not available or, for some reason, the authority wish to suggest that some other building scheme is more truly comparable, they should submit their proposal to the Minister.

In the case of the *Airey Rural house*, the Minister proposes, as explained in Circular 86/46, to make a flat rate grant which will be the same for the whole country. This grant will represent the estimated excess cost, assuming reasonable tenders, of this method of construction over that of a traditional house. It will be for the local authority to consider and submit in the usual way the tenders they receive, and the Minister does not propose to fix the flat rate grant until his officers have had an opportunity of examining some actual tenders. Authorities will be informed of the price at which the components to be supplied by the Government may be purchased.

Grants under this section will be made on application by the local authority after completion of the houses. In making the application the local authority should forward a certified copy of the certificate of completion issued by the Surveyor or other authorised officer of the Council, together with particulars of the site on which the houses have been erected and of the type of construction.

2. Houses for agricultural workers to be provided by persons other than the local authority

Under Section 3 of the Housing (Financial Provisions) Act, 1938, local authorities are enabled to make grants in respect of agricultural housing provided by other persons; Section 13 of the Act of 1946 increases the maximum amount of the Exchequer assistance which may be given from £10 a year for 40 years to £15 a year for 40 years, and also amends the conditions which must be observed. The amount of the assistance to be given by the local authority is at their discretion, but the amount of the contribution payable to the local authority by the Minister in respect of a new house completed with the promise of such assistance under arrangements made after the 18th April, 1946, will not exceed the amount of the assistance or a maximum of £15 a year for 40 years for each house.

The payment of the Minister's contribution in respect of such a house will be dependent on the observance of certain conditions. These are that the house :—

- (a) is reserved for members of the agricultural population ;
- (b) if let, is let at a rent not exceeding such rent as in the opinion of the council it would have been appropriate for the council to charge if the house had been provided by them, and
- (c) is of suitable size and construction.

The local authority should make the observance of these requirements a condition of their grant of assistance to the applicant and it is suggested that the applicant should be required to sign an undertaking that requirements (a) and (b) will be observed.

No contribution is payable in respect of a house for any year unless these requirements have been observed, and unless reasonable steps have been taken to secure the maintenance of the house in a proper state of repair during the year. Also, in respect of a house completed after the 18th April, 1946 (whether the arrangements were made under the section before or after that date), no contribution is payable for any year during the whole or any part of which the house has been occupied by a person who was not the owner or a tenant; no contribution is, therefore, payable in respect of a "tied" house. It will be necessary for the local authority to certify to the Minister that these conditions have been observed during the year.

Particulars of any applications in regard to which the local authority propose to make arrangements should be submitted to the Minister with a statement of the amount of grant proposed to be given and of the steps which the local authority propose to take to ensure that the statutory requirements are observed. A plan and lay-out of the house or houses should be enclosed and also a certificate from the Surveyor to the Council that the houses—

(a) are in compliance with the requirements as to size, materials, density, type of construction, etc., approved by the Minister of Health for houses to be built by local authorities.

(b) are to be of entirely new construction and of a type for which a loan period of not less than 60 years is allowed to a local authority by the Minister of Health ;

(c) will not prejudice or conflict with the requirements of any planning scheme made or likely to be made in respect of the area in which the houses are to be provided or of a neighbouring area.

3. Wartime emergency programme of housing for agricultural workers

In paragraph (5) of Circular 2766 dated the 4th February, 1943, a promise was given that if any increase in the rate of subsidy was included in housing legislation for houses provided for agricultural workers after the war the Minister would propose to Parliament that such increase should be payable in respect of houses approved under the arrangements described in that Circular, and Section 10 of the Act of 1946 is designed to implement this promise. The section gives the Minister power to reduce the number of contributions payable, the amount of any such contributions, or the period for which any contribution is payable, and, in applying this provision to these houses it is proposed to have regard to the actual cost of building the houses and to the capital grant of £150 paid by the Minister of Agriculture and Fisheries. In making an application for payment of the increased subsidy provided by this section the local authority should furnish a detailed statement of the cost of erection of the houses, and of the capital grants received from the Minister of Agriculture and Fisheries, together with particulars of the rents charged for the houses and information as to the considerations which were taken into account in determining those rents.

4. Amendments of existing legislation relating to housing accounts

The following amendments of existing legislation relating to the housing accounts of local authorities are made by Section 21 of the Act :—

(a) *Houses which become vested in the local authority*

Where a house in respect of which assistance has been given by a local authority becomes vested in the local authority by reason of the default of the person receiving the assistance in carrying out the terms of the arrangements under which the assistance was given, the income and expenditure relating to the house must under subsection (1) of the section be included in the Housing Revenue Account of the authority. Sub-section (2) requires the Housing Revenue Account to be credited with amounts equal to any Exchequer assistance paid to a local authority under Section 1 (1) (a) of the Housing, etc., Act, 1923, Section 4 (1) of the Housing (Rural Workers) Act, 1926, or Section 9 of the Housing (Financial Provisions) Act, 1938, in respect of a house which has become vested in the local authority.

(b) *Housing Revenue Account*

Sub-section (3) will enable freer use to be made of surpluses on local authorities' Housing Revenue Accounts than was permissible under previous legislation. Under the sub-section the local authority will be able, subject to the Minister's approval, to use a surplus shown at the end of any financial year for any purposes connected with the provision of housing accommodation, such as meeting capital expenditure on housing in lieu of borrowing, acceleration of housing debt repayment, or recoupment to the general rate fund of notional loan charges on capital expenditure on housing which has been met initially out of the general rate fund.

(c) *Housing Repairs Account*

Under sub-section (4) the annual contribution to the Housing Repairs Account as from the 1st April, 1946, is to be not less than £4 per house, instead of not less than 15 per cent. of the annual exclusive rent as required by Section 131 of the Act of 1936.

(d) *Housing Equalisation Account*

Sub-section (5) gives each local authority the option of continuing to maintain a Housing Equalisation Account in respect of houses subsidised under previous Acts or of closing the account if they so desire. An Equalisation Account is not necessary in respect of Exchequer or County Council contributions payable under the Act of 1946 since those contributions are payable for 60 years and thus coincide with the normal period of repayment of the local authority's housing loans.

5. Time and manner of payment of exchequer contributions and conditions of grant

Section 112 of the Housing Act, 1936, provides that contributions to be made by the Minister to a local authority under any enactment in the Housing Acts are payable at such time and in such manner as the Treasury may direct and subject to such conditions as to records, certificates, audit or otherwise as the Minister may, with the approval of the Treasury, impose.

The conditions as to records, certificates, audit or otherwise, as approved by the Treasury, are set out in Appendix III.

With the approval of the Treasury, payments on account of Exchequer contributions may be made periodically to local authorities and the balances will be paid after the claims of the local authorities have been examined by the District Auditor. Forms will be supplied in due course for the purpose of claiming contributions.

APPENDIX III.

CONDITIONS OF GRANT APPROVED BY TREASURY HOUSING (FINANCIAL AND MISCELLANEOUS PROVISIONS) ACT, 1946.

1. The local authority shall keep registers of new dwellings provided with financial assistance from the Exchequer under the Housing (Financial and Miscellaneous Provisions) Act, 1946. Separate parts of the registers shall be used for the recording of particulars relating to dwellings provided by the authority and dwellings provided by a housing association under arrangements made under Section 94 of the Housing Act, 1936. Particulars will be entered in the register as regards each contract, showing :—

- (a) Site and address or situation of dwellings ;
- (b) Reference to contract and plans ;
- (c) Amount and period of annual contribution to be made by the Minister ;
- (d) In the case of dwellings admitted for Exchequer contributions under Section 10 of the Act of 1946, the date from which the contributions are payable ;
- (e) Reference to the Minister's undertaking to make the contribution referred to at (c) ;
- (f) Amount of capital grant (if any) payable by the Minister under Section 17 (1) of the Act of 1946 in respect of non-traditional houses ;
- (g) Reference to the Minister's undertaking to pay the capital grant referred to at (f) ;
- (h) Date of completion of each dwelling ;
- (i) Reference to certificate of completion by surveyor or other authorised officer of the Council ;
- (j) If the dwellings are provided by a housing association, references to the arrangements made by the local authority with the association and to the Minister's approval of such arrangements.

2. Where new dwellings are provided by a housing association and Exchequer contributions are payable to the local authority in respect of the dwellings, an undertaking in relation to the dwellings shall be given by the local authority that they will take steps to satisfy themselves before each payment of grant by them to the association that the terms of the arrangements made with the association and approved by the Minister, or the conditions imposed by a scheme under Section 95 of the Act of 1936, have been, and are being observed by the association.

3. The local authority shall keep a separate register of temporary dwellings provided in Government war buildings to which Section 12 of the Act of 1946 relates. Particulars will be entered in the register as regards each site, showing :—

- (a) Site and address or situation of the war buildings ;
- (b) Reference to contract and plans for the conversion of the buildings ;
- (c) (i) Amount of annual contribution to be made by the Minister ; or
- (ii) Amount of annual payment to be made by the local authority to the Minister ;

(d) Reference to the Minister's agreement to the amount of the contribution or payment referred to at (c) ;

(e) Date of completion of each temporary dwelling ;

(f) Reference to certificate of completion by surveyor or other authorised officer of the Council.

4. The local authority shall keep a separate register of dwellings provided under Section 3 of the Housing (Financial Provisions) Act, 1938, as amended by Section 13 of the Act of 1946, showing as regards each house :—

(a) Name of person providing the house ;

(b) Address or situation of house ;

(c) Reference to and date of arrangements made by the local authority with the person referred to at (a) ;

(d) Reference to the Minister's approval of the arrangements ;

(e) Amount of annual contribution to be made by the Minister ;

(f) Date of completion of the house ;

(g) Reference to certificate of completion by surveyor or other authorised officer of the Council ;

(h) Name and occupation of occupier of the house and whether owner or tenant ;

(i) The weekly rent charged for the house (if let to a tenant) ;

(j) The weekly rent determined in accordance with paragraph (b) of Section 3 (1) of the Act of 1938 as amended by Section 13 (2) of the Act of 1946.

5. In respect of new dwellings, the certificate of completion by the surveyor or other authorised officer of the authority shall be in the following form :—

Housing (Financial and Miscellaneous Provisions) Act, 1946.

Certificate of Completion of Dwellings.

This is to certify that each of the dwellings described in the schedule below was completed fit for occupation before the date set opposite to the description of the dwelling in that schedule ;

And that the dwellings have been constructed in a proper and workmanlike manner and in compliance with the requirements as to size, materials, type of construction, etc., approved by the Minister of Health ;

And that the dwellings are of entirely new construction and of a type for which a loan period of not less than sixty years is allowed by the Minister of Health or which has been specially approved by the Minister of Health.

SCHEDULE.

Address or description of dwelling.	Date of completion.	Reference No. for register.

Given under my hand this day of , 19 .

Signed.....

Surveyor or other authorised officer of the
.....Council.

6. In respect of temporary dwellings provided in Government war buildings to which Section 12 of the Act of 1946 relates, the certificate of completion by the surveyor or other authorised officer of the authority shall be in the following form :—

Housing (Financial and Miscellaneous Provisions) Act, 1946, Section 12.

Certificate of completion of temporary dwellings.

This is to certify that each of the temporary dwellings described in the schedule below was completed fit for occupation before the date set opposite to the description of the dwelling in that schedule.

And that the works of conversion of the buildings for the purpose of providing the dwellings have been carried out in a proper and workmanlike manner.

SCHEDULE.

Address or description of dwelling.	Date of completion.	Reference No. for register.

Given under my hand this day of , 19 .

Signed

Surveyor or other authorised officer of the
.....Council.

7. The conditions approved by the Treasury as set out in Section VII of Appendix 1 to Memorandum E dated October, 1935, relating to the Consolidation of Housing Contributions and Accounts, shall apply to new dwellings provided under the Act in the same manner as they apply to other dwellings provided with financial assistance from the Exchequer and referred to in the said Appendix.

**MEMORANDA ISSUED BY THE MINISTRY OF
HEALTH ON THE HOUSING ACT, 1935.**

MEMORANDUM A—GENERAL.

SUMMARY.

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1. The Housing Act, 1935, gives local authorities new powers and imposes upon them new duties in relation to the abatement of overcrowding and the redevelopment of congested areas. It provides for the consolidation of the housing accounts of local authorities, for the continuation of the subsidy under the Housing Act, 1930, at its present rate until 31st March, 1938, and for a new form of Exchequer assistance towards the cost of rehousing overcrowded persons, and makes many important amendments and additions to the housing powers of local authorities.

Separate Memoranda deal with certain matters of principal importance arising under the Act.

In the present Memorandum the other chief provisions of the Act are outlined under certain main headings and alterations in the present administrative procedure which may be necessary are indicated.

ALTERATIONS AFFECTING PART I OF THE ACT OF 1930.

2. **Clearance Areas.**—The new Act does not alter the general definition of, or the procedure for declaring a clearance area, as laid down in the Housing Act, 1930, but it alters in two respects the classes of property which may be included in such an area.

In the first place it provides in Section 67 that a clearance area may include, or may be wholly composed of, property belonging to the local authority themselves. The restriction contained in Section 4 of the Housing Act, 1930, whereby a local authority could only include property which they had acquired under Sections 54 or 63 of the Housing Act, 1925, has been removed, and the only restriction which now remains affecting property owned by a local authority is that they cannot include in a clearance area property which they have acquired in such circumstances that an obligation rests upon them under the Fifth Schedule of the 1925 Act to submit a rehousing scheme to the Minister.

In the second place, Section 80 of the Act makes it clear that a local authority may include in a clearance area any hut, tent, caravan or similar structure which, although once movable, has in effect become a fixed structure

used as a permanent dwelling and is unfit for human habitation. The criterion of distinction between a really movable dwelling and such a structure is that the structure has remained in the same enclosure during the period of two years immediately before it is included in the clearance area.

3. Clearance Orders.—The general procedure for the making, submission and confirmation of clearance orders is, with two important exceptions, untouched by the new Act. The first is that a local authority, when making a clearance order at any time after the date of the new Act in relation to property in a clearance area, must exclude from the clearance order any dwelling-houses or other buildings which have only been included in the area on the ground that, by reason of their bad arrangement in relation to other buildings or the narrowness or bad arrangement of the streets, they are dangerous or injurious to the health of the inhabitants of the area (Section 62). It will be seen, therefore, that if, in a clearance area declared by a local authority, there is a dwelling-house which is not in itself unfit for human habitation but which has been included in the area only as helping to congest other properties, it must be excluded from any clearance order relating to that area. Nothing in the section limits the power of the local authority to deal with a house which is of itself unfit. Generally under this provision a building other than a dwelling-house cannot be included in a clearance order, but a building, part of which is dwelling accommodation and part accommodation for some other purpose, may be included in a clearance order if the part not used for that other purpose is unfit for human habitation by reason of disrepair or sanitary defects. The question whether such a building should be included in a clearance order is one to be determined on the merits of each case. If the building is such that the dwelling accommodation forms only a subsidiary part of the main building, the appropriate course will normally be the making of a closing order on the unfit accommodation under the extended powers of the new Act (see paragraph 16).

The second alteration in procedure is made by Section 63 which provides that the public inquiry into a clearance order cannot be held until at least fourteen days after the Minister is satisfied that the local authority have served on every objector a written notice setting out the facts on which they rely as their principal grounds for being satisfied that the property is unfit. It will therefore be necessary for local authorities to proceed with the preparation of these notices at an early stage in the proceedings in order to avoid delay in the fixing of inquiries.

4. Compulsory Purchase Orders.—The general procedure for the making, submission and confirmation of compulsory purchase orders under Part I of the Act of 1930 is somewhat modified by the new Act. The most important modifications are those which correspond to the modification in the clearance order procedure already mentioned. In the first place, there must be written notice under Section 63 to all objectors before the public inquiry can be held, and in the second place properties which, under the term of Section 62, cannot be included in a clearance order, can only be acquired compulsorily on the same basis of compensation as applies to property outside the clearance area, that is to say, compensation assessed in accordance with Part II of the Third Schedule of the Housing Act, 1930, and these properties must be distinguished in the compulsory purchase order. The considerations mentioned in the preceding paragraph will apply in the case of a "mixed building."

In addition (1) the abolition of the reduction factor (see paragraph 5 of this memorandum) will make it unnecessary to distinguish in compulsory purchase orders land which it is proposed to use for rehousing; and

(2) Section 65 provides that, where the local authority have submitted a compulsory purchase order to acquire property in a clearance area and on application by the authority and the owner of any particular property the Minister is satisfied that the owner might reasonably retain the land if he demolished the buildings thereon, the Minister may, (a) if the compulsory purchase order has not been confirmed, authorise the local authority to make without any of the usual formalities of notice, publication, etc., a clearance

order with respect to that particular property and may then without a local inquiry confirm this clearance order and modify the compulsory purchase order accordingly; (b) if the compulsory purchase order has been confirmed but the local authority have not yet bought the property belonging to the owner in question, authorise the local authority not to proceed to purchase the land but to take binding covenants from the owner for the demolition of the property on his land.

5. Abolition of the Reduction Factor.—Section 62 repeals the proviso to Section 46 (1) of the Housing Act, 1925, which provides for a reduction of compensation payable in respect of the compulsory purchase of land comprised in a clearance area where the land is to be appropriated for rehousing. This repeal is effective as regards land included in any compulsory purchase order made by the local authority on or after the 20th December, 1934. If compensation for land acquired under such an order has been settled on the old basis, the owner can claim to have the matter re-opened and his compensation re-assessed.

6. Payments in respect of well maintained houses.—Section 64 provides that in certain circumstances the local authority shall make a payment to the owner of a house which, though unfit for human habitation and therefore properly included in a clearance order or in a compulsory purchase order for purchase at site value, has been as well maintained as is practicable in all the circumstances. The houses concerned are those included in clearance orders or as pink property in compulsory purchase orders made by a local authority on or after the 20th December, 1934. The decision whether this payment is to be made in respect of a particular house will be taken by the Minister after considering the report of an Inspector. The Inspector's recommendation in this matter will be based on his findings as a result of his personal inspection of the property.

The total payment made in respect of any property, including compensation assessed under Part I of the Third Schedule to the Housing Act, 1930, is not to exceed the compensation which would be payable if Part II of that Schedule were applicable. Subject to this limit the payment under Section 64 will be either (a) the amount by which the expenditure which the local authority are satisfied has been incurred on the property during the five years immediately preceding the date of the order exceeds an amount equal to $1\frac{1}{4}$ times the rateable value, or (b) an amount equal to $1\frac{1}{2}$ times the rateable value of the house, whichever is the greater. In the case of an owner-occupier of three years' standing, or more, the minimum payment will be three times the rateable value. For this purpose the rateable value means the value of the house as shown at the date on which the order was made in the Valuation List in force at that date or, if the net annual value differs from the rateable value, the net annual value.

In certain circumstances defined in the Section, a payment under Section 64 may be made to some person other than the owner. It is to be made (a) to the owner if he is the occupier, and (b) in cases where the house is not owner-occupied, to the person or persons liable for the maintenance of the house, being apportioned, if there is more than one person liable, in such a manner as the authority think equitable. A further provision enables the local authority to pay the whole or part of the sum to some other person (e.g. the tenant) who may not be legally responsible for the maintenance of the house but satisfies the local authority that in fact the good maintenance of the house is materially due to work carried out by him or at his expense.

7. Ex-gratia Allowances towards cost of removal or in cases of financial loss.—Section 88 extends Section 41 of the Act of 1930, which empowers a local authority to make certain allowances to persons displaced from unfit property, by bringing within the scope of the Section (a) persons displaced from property not within a clearance area acquired by compulsory purchase under Part I of the Act of 1930; (b) persons displaced from property in a redevelopment area which is acquired at site value as being unfit for human habitation, and (c) retail shopkeepers whose premises are in the neighbourhood of a clearance area and who can satisfy the local authority that,

as a result of the clearance operations having diminished the population of the locality, they have suffered loss involving personal hardship. In estimating any such loss, the local authority are to have regard to the probable future development of the locality.

The substance of Section 41 is not otherwise changed. The allowances are still entirely at the discretion of the local authority. The Minister trusts, however, that every local authority will exercise their power of making reasonable allowances in suitable cases in order to mitigate the hardships to shopkeepers and others which may result from the large scale clearance operations which are now proceeding. The Minister will be prepared to sanction loans to cover any expenditure incurred by a local authority in the exercise of their powers under Section 41, and these expenses or the necessary loan repayments may be included in the Housing Revenue Account.

8. Compensation to Statutory Undertakers.—Section 91 provides a new code for the assessment of compensation to statutory undertakers whose pipes, mains, etc., are interfered with by clearance or redevelopment schemes of a local authority.

The Section deals with two cases—(a) where the removal of the statutory undertakers' apparatus is necessary for the purpose of enabling the local authority to exercise their powers of clearance or redevelopment, and (b) where it is necessary for the purposes of the undertakers themselves. The term "apparatus" is defined in Section 97 as meaning pipes, wires, etc., used for conveying to any premises a supply of water, gas, etc. It does not include apparatus on the premises themselves. In the first case the local authority may do the necessary work of removal and substitution and the undertakers are entitled to claim compensation for loss due to the destruction of apparatus. No claim is sustainable for loss of profits. In the second case the undertakers are empowered to call upon the local authority to carry out the work, and since it is done to meet the necessities of the undertakers, no question of compensation arises. In both cases the work must be carried out by the local authority to the reasonable satisfaction of the undertakers, but the latter have the option of doing the work themselves at the cost of the authority. Any dispute between the two bodies as to whether the works which the local authority propose or are required to carry out are necessary or reasonable is to be settled by arbitration.

These provisions take the place of Section 13 (2) of the Act of 1930, so far as regards the pipes, wires, etc., of statutory undertakers. As regards rights of way, easements, etc., vested in other persons, sub-section (7) of Section 91 amends Section 13 (2) of the earlier Act by providing that such rights and easements are to be extinguished and compensation paid to any person who suffers loss by the extinguishment.

9. Improvement Areas.—The "improvement area" procedure which was set up by Sections 7 and 8 of the Act of 1930 is repealed by Section 19 of the new Act. Byelaws relating to overcrowding will no longer be necessary in any case, as overcrowding in all areas is covered by the new Act; and a general power—and in certain circumstances a duty—of making housing byelaws on the other matters arising under Section 8 of the 1930 Act is conferred on local authorities by Section 68 of the Act (see paragraph 27).

Where a local authority have already declared an improvement area but have not, before the passing of the new Act, taken the consequential step of making byelaws, the obligation to make byelaws for the area lapses and is absorbed in the other provision made by Section 2 and Section 68. Where such byelaws have already been made and are in force at the date of the passing of the new Act, they will remain in force until the "appointed day." This will be the day when the statutory overcrowding code comes into operation in the area of the local authority. As from that date that part of the byelaws relating to overcrowding in ordinary houses will lapse, but the remainder of the byelaws dealing with houses let in lodgings or with the sanitary conditions and amenities to be provided in houses will continue in force in relation to property in the improvement area.

OTHER AMENDMENTS AFFECTING PART I OF THE ACT OF 1930.

10.—(a) Minister to state reasons for his decision that property is unfit.—Section 63 (2) of the new Act provides that any objector who appeared at the Public Inquiry in support of his objection shall, if his property is included in a confirmed clearance or compulsory purchase order as unfit, be entitled, on making a request in writing, to be furnished by the Minister with a written statement of his reasons for deciding that the property was unfit.

(b) Section 13 of the Act of 1930 (Closing of Rights of Way).—Section 81 of the new Act amends Section 13 of the Act of 1930 with the object of avoiding delay. Under Section 13, a local authority who had purchased land in a clearance area or land immediately adjoining, could proceed to make an order closing any highways and extinguishing any rights-of-way on the land for the purpose of enabling them to redevelop the area properly, but this latter order could only be made when the land had been purchased. Section 81 provides that the local authority may proceed to make and submit to the Minister the order dealing with the closing of highways as soon as they have decided to purchase (i.e., in the usual case, have submitted the compulsory purchase order to the Minister). The Minister, in approving the order closing the highways, will direct that it shall operate either from the date on which the buildings are vacated, or from some subsequent specified date.

(c) Section 2 of the Act of 1930 (Restrictions on Cleared Sites).—For the purpose of removing doubts, Section 80 of the new Act declares that the powers conferred on local authorities by Section 2 (5) of the Act of 1930 to impose restrictions on the use of the cleared site of a clearance area, includes the power to impose restrictions on the erection or placing on the site of any hut, tent, caravan or similar structure.

(d) Section 5 of the Act of 1930 (Exchange of Land).—Under this section, a local authority are empowered, subject to certain conditions, to sell land which they have acquired in a clearance area. It is sometimes possible for a local authority to acquire land in a clearance area on favourable terms by arranging with the owner for an exchange of that land for other land which the local authority possess or can acquire. Section 66 of the new Act empowers a local authority to make such an exchange.

(e) Work carried out by Owners.—In certain circumstances where owners have themselves carried out works to their property, that property cannot be dealt with under Part I of the Act of 1930. (See paragraphs 14 and 15.)

ALTERATIONS AFFECTING PART II OF THE ACT OF 1930.

11. Closing Orders.—Section 84 repeals and re-enacts with modifications, Section 20 of the Act of 1930, which empowers local authorities to make closing orders in certain cases. A local authority will now be able to make a closing order (a) on any part of a building which is occupied by the working classes, and not only, as at present, on any part of a building which is let as a separate habitation; (b) on any part of a house which, though not occupied, is suitable for occupation by the working classes; and (c) on an underground room whether used for sleeping purposes or not, falling within the definition of Section 18 of the Act of 1925. Moreover, the effect of a "closing" order will in future be to limit the use of the room or part of the building to which it applies to a specified use approved by the local authority. Any aggrieved person may appeal to the County Court against a restriction imposed by a closing order. Section 68 of the new Act provides that byelaws made under Section 6 of the Act of 1925 may include provisions for the prevention of nuisances arising from or in a room or part of a building to which a closing order relates.

12. Demolition Orders.—(a) Section 83 amends Section 19 of the 1930 Act directing that an owner if he wishes to submit an offer to carry out works to property in respect of which he has received a Section 19 notice from

the local authority must so inform the authority within twenty-one days. If he does so, the authority must allow him a reasonable time in which to submit his list of works. If he does not do so, and the matter goes to the Court, he will not be able to submit the undertaking to the County Court.

(b) Section 55 directs that in certain circumstances where owners have themselves carried out works to their property, that property shall not for a number of years be made the subject of a demolition order or a closing order (see paragraph 15).

(c) Where a local authority exercise their new powers of cleansing from vermin a house to be demolished (see paragraph 28), the date on which the demolition order in respect of that house operates is postponed.

13. Obstructive Buildings.—Sections 58–61 of the new Act reproduce the substance of Sections 19–22 of the Housing Act, 1925, which gave local authorities power to secure the removal of obstructive buildings. The sections in the 1925 Act were repealed by the 1930 Act as being generally unnecessary in view of the special power given to local authorities in connection with improvement areas to acquire and demolish buildings where that course was necessary for the purpose of opening out the area. As the improvement area procedure is being repealed by the new Act, the power to deal with obstructive buildings has been re-inserted.

REDEVELOPMENT AND RECONDITIONING BY OWNERS.

14. Redevelopment by Owners.—Sections 54–56 of the Act contain new provisions to facilitate the redevelopment and reconditioning of their property by owners. Owners wishing to carry out a scheme for the redevelopment of property, may submit plans of their proposals to the local authority. If the local authority are satisfied with the proposals (which will imply that they are of opinion that the proposals are not likely to conflict with any scheme to be carried out by themselves), they may approve the proposals and specify the time or times within which the work must be carried out. Thereupon, if the work proceeds according to the specified time schedule, the local authority are debarred from dealing with the property either under the 1930 Act or under the redevelopment provisions of the new Act. Proposals of this kind cannot be made in relation to property which is already the subject of a demolition order or has already been included in a clearance or compulsory purchase order confirmed under the Act of 1930 or a redevelopment plan approved under the new Act. If the property in question is included in an area which has already been declared to be a clearance or redevelopment area but as regards which no decision has been taken by the Minister, the local authority, in lieu of considering the owner's proposals themselves, may treat them as objections to their own proposals for dealing with the area and submit them to the Minister for his consideration when dealing with their subsequent order or redevelopment plan.

Section 54 also provides that, where a local authority have approved an owner's redevelopment proposals and the owner has to obtain possession of a rent-restricted (controlled) house in order to carry out his proposed works, the local authority can, if satisfied with the new accommodation which is to be provided for the tenants to be displaced, issue a certificate to the effect that suitable alternative accommodation within the meaning of the definition in Section 12 is being provided. Such a certificate will have effect as if it were a certificate under the Rent Restriction Acts stating that the local authority were themselves rehousing the tenants, and will thus facilitate the owner's obtaining possession of the property.

15. Reconditioning by Owners.—Section 55 provides that when an owner proposes to recondition property by works of structural alteration or improvement, including the provision of additional or improved fixtures or fittings, he may submit a list of works to the local authority with a request that they will state whether, in their opinion, the house would, after the execution of the works be fit for human habitation, and with proper maintenance, would remain fit for at least five years, or alternatively, what addi-

tional works would be necessary for that purpose. It is the duty of the local authority to comply with a request of this kind, and if not satisfied with the owner's proposals to state what other works they think are necessary. If subsequently all the works considered necessary by the local authority have been carried out to their satisfaction, they must, on request, issue to the owner, on payment of a fee of 1s., a certificate that the house is in all respects fit for human habitation and that it will, with reasonable maintenance, remain so fit for a period (not less than five years or more than 10 years), to be stated in the certificate. The possession of such a certificate by the owner will mean that his house cannot, during that period, if reasonably maintained, be made the subject of a demolition or closing order or be included in a clearance order or in a compulsory purchase order to be purchased at site value.

The foregoing procedure is not available in respect of any property which is the subject of a demolition order or is already included in a confirmed order or redevelopment plan, and if the property is included in an area already declared by the local authority to be a clearance area (or a redevelopment area under the new Act), then the local authority, instead of proceeding as provided for in Section 55, may submit the owner's proposals to the Minister for his consideration when he is dealing with their order or redevelopment plan.

The new rights conferred on owners by this section may, in certain areas, throw a considerable amount of extra work upon the local authority and their staff. It will be necessary that every application shall be carefully considered before a local authority approve the specified list of works as being sufficient, and that applications shall be dealt with expeditiously.

HOUSING ASSOCIATIONS.

16. Definition.—Section 26 defines the new term "Housing Association". For the most part the definition is taken from Section 3 (2) of the Housing, etc., Act, 1923. It covers all bodies (including public utility societies and limited companies) dealing with working class housing, which do not trade for profit or issue shares or loan stock with interest or dividend exceeding a rate prescribed by the Treasury. The rate at present prescribed is 5 per cent.

17. Arrangements with Housing Associations.—Section 27 provides that, with the approval of the Minister a local authority may make arrangements with any housing association for the association to—

- (a) provide re-housing for persons displaced by the local authority by action under the 1930 Act from unfit houses ;
- (b) carry out the whole or any part of the housing work involved in the redevelopment of a congested area ;
- (c) provide re-housing for persons displaced by the local authority to abate overcrowding ; or
- (d) undertake the reconditioning and management of property bought by the local authority for that purpose.

The approved arrangements between the local authority and the housing association must *inter alia* specify the types of houses to be provided and the rents at which they are to be let. There are no special statutory conditions as to rent, tenancy, etc., apart from the terms of the approved arrangements, but in considering any proposed arrangements the Minister would have regard to the general conditions imposed on local authorities by Section 51 of the new Act with a view to their adaptation, as far as practicable, to the circumstances of the association.

The local authority are required to pay to the association any grant which would be paid if the authority had themselves provided the accommodation, and this grant will be paid by the Minister to the local authority. The authority may, out of the rates, increase the amount of their contribution to the association beyond the amount of the grant.

The Minister, on the complaint of a housing association that a local authority have unreasonably refused to make arrangements with them, may

require the authority to furnish him with a report on the matter, stating the reasons for their refusal.

Power is reserved to the Minister to reduce, suspend or discontinue his payment to the local authority where he is satisfied that the association are not carrying out the approved arrangements. If the Minister takes action of this sort, the local authority may take corresponding action in relation to their contribution to the housing association.

Section 28 makes provision whereby a housing association which is receiving contributions under different enactments, subject to the observance of the special conditions laid down by those enactments, may request the Minister to make a scheme for the consolidation of the grants and the unification of the conditions. Before taking action the Minister must consult the local authority concerned. The new conditions applicable to the consolidated grant are to be based on the conditions in Part IV of the Act.

Section 29 of the Housing Act, 1930, is repealed without prejudice to existing arrangements under that section between a local authority and a public utility society.

18. Guarantees to Housing Associations.—Section 29 of the Act contains provisions which enable the Public Works Loan Board to make advances to housing associations up to a maximum of 90 per cent. of the value of houses to be erected by them. Section 90 (5) of the Housing Act, 1925, empowered the Board to advance money to public utility societies up to two-thirds of the value of the houses provided. Under the new section, a housing association may offer as security for an advance, not only the houses to be erected but any existing working class houses which they own. The Board will be empowered to make an advance up to 90 per cent. of the value of the property mortgaged when the payment of principal and interest is guaranteed under Section 70 of the 1925 Act (which requires the Minister's consent to be given) by a local authority or County Council. When a housing association cannot obtain such a guarantee, the advance may equal 75 per cent. of this value, but if it exceeds 66⅔ per cent. the Public Works Loan Commissioners will require collateral security.

The powers of local authorities to assist public utility societies under Section 70 of the 1925 Act are extended to cover assistance to all bodies included in the new definition of "housing association". Section 107 of the Act of 1925 is extended by Section 77 of the new Act to enable a local authority to provide buildings, recreation grounds, etc., which will serve a beneficial purpose in connection with the requirements of persons for whom housing accommodation has been provided by a housing association under approved arrangements with the local authority.

19. Central Housing Association.—Section 30 provides that if a Central Housing Association is in existence or is formed in the future to assist and advise housing associations the Minister may give such an association official recognition and may, for a period of five years, make a grant in aid of the expenses of that association.

HOUSING (RURAL WORKERS) ACTS, 1926 TO 1931.

20. Extension and Alteration of the Acts.—Section 37 extends the period of operation of these Acts from the 1st October, 1936, when they were due to expire, until the 24th June, 1938. It is expressly provided that this alteration of date will not necessitate the re-submission for approval by a local authority of schemes which have already been approved. In those approved schemes in which the 1st October, 1936, appears, a reference to the 24th June, 1938, is automatically substituted for the earlier date.

The rate of interest on loans granted under the Acts will not in future be prescribed by order of the Minister. It is fixed at a rate of ½ per cent. in excess of the Public Works Loan Board's rate for housing loans to local authorities which was current one month before the terms of the loan were settled.

Section 3 (1) (b) of the 1926 Act which provides that the maximum increase of rent for a reconditioned cottage shall not exceed 3 per cent. of the part of the estimated cost of the work borne by the owner himself, is amended by the substitution of 4 per cent. for 3 per cent., but this alteration will not apply in respect of a dwelling where the reconditioning was completed by the 1st January, 1935.

21. Houses owned by Local Authorities.—Section 38 of the Act enables a local authority to obtain the same grant in respect of works which they carry out to property belonging to themselves as a private owner would have obtained if he had carried out those works. Where the local authority carrying out the works are not the local authority under the Housing (Rural Workers) Acts, they will proceed exactly as if they were private owners, i.e., make an application in the proper form to the authority administering the Acts.

Where the local authority carrying out the works are the authority administering the Acts the application for assistance must be made direct to the Minister and should be accompanied by such details (including plans, specification and information as to rents to be charged, etc.) as would have been submitted by a private owner to the authority when making application for a grant. In such a case, if the local authority receiving grant are the County Council, the rent conditions contained in Section 3 of the Act of 1926 will apply as if the County Council had received a grant of twice the amount which they actually receive. The effect is that the County Council, not being in a position to recoup themselves by an increase of rent except as to one-third of the estimated cost, will share with the Exchequer the remaining two-thirds, and the cost to the rates will thus be the same as if the grant had been made to a private owner. If the authority receiving grant are the Housing Authority for the district, the rent conditions contained in the Act of 1926 will not apply. (See Section 52 (2).) Together with all other special conditions, they are replaced by the general conditions set out in Section 51 of the new Act. There is, however, a specific requirement that, where a Housing Authority receive a grant, they shall contribute an equivalent amount out of the rates.

The Minister knows that there is a wide scope for operations under these Acts and hopes that the new provisions enabling a local authority themselves to obtain grants will lead to greatly increased activity under those Acts. In many cases the most economical as well as the most satisfactory way of providing additional housing accommodation, especially to meet overcrowding, may be the making of extensions and additions to existing cottages, and local authorities are now armed with complete powers and facilities for seeing that the necessary work is done. In the case where, for some reason or other, desirable work of this kind is not carried out by the owner, the local authority have power compulsorily to acquire the property (see paragraph 24).

HOUSING MANAGEMENT COMMISSIONS.

22. Section 25 empowers a local authority to set up a Housing Management Commission to whom they may transfer their housing functions relating to the management, regulation, control, repair, etc., of all or any of the housing estates of the authority. The transfer is to be made by a scheme submitted by the local authority for the approval of the Minister. Any such scheme would include provisions as to the method of appointment and term of office of the members of the Commission and as to the financial relations between the local authority and the Commission. Section 25 itself includes a list of the most important subjects with which the scheme would have to deal.

It is contemplated that a scheme will normally provide that the Commission shall make an annual payment to the local authority in respect of the property transferred to them and should then be responsible for letting, repairs, maintenance, etc., and that, subject to carrying out this task satisfactorily, they would be a permanent body, though provision would require

to be made in the scheme for the dissolution of the Commission and re-transfer of the property to the local authority on grounds to be specified.

This section is the first provision in the Housing Acts which recognises that a distinction may legitimately be drawn between the body responsible for providing housing accommodation when and where it is needed, and the body to be responsible for the management and control of that accommodation when it has been provided. There is no question but that the duty of seeing that the housing needs of their area are adequately met must rest solely upon the local authority, but there is a growing body of opinion that the local authority may not necessarily be the most appropriate body permanently to manage and control the houses when they have been provided. Housing Management Commissions of the type contemplated in the Section would secure continuity of policy and would extend the scope of professional house management, which experience has shown is so advantageous both from the point of view of improving the conditions of the tenants and from that of preventing the depreciation of the property. The section confers on local authorities a power to establish such Housing Management Commissions and does not impose a duty to do so, but the Minister hopes that every local authority will take the question of exercising their powers into serious consideration. The matter in the present stage is experimental, but the Minister sees no reason why a local authority should not take advantage of its new powers to set up a Housing Management Commission which could, in the first instance at any rate, operate over a limited area. Experience obtained from such an arrangement would then be available as a guide to the authority when considering its extension.

Apart from houses which may be placed in the charge of Management Commissions, the Minister desires to emphasize the importance of employing trained housing estate managers in connection with housing estates remaining under the management of local authorities. Attention has already been directed to this matter in the Ministry's Annual Reports, where reference has been made to the successful results which have been achieved by the Octavia Hill system of management, which is also advocated in the Report of the Departmental Committee on Housing under the chairmanship of Lord Moyne. Operations under the Housing Act, 1930, have made it necessary for authorities to provide accommodation for many persons who have hitherto had little opportunity of learning to make the fullest use of, and to care for, the facilities afforded by a modern dwelling. The steps now to be taken to abate overcrowding will add to their number. Experience has shown that often such persons more readily derive the full advantage which should follow removal to healthy modern surroundings when encouraged by skilled help and guidance. At the same time it is of special importance that new houses in the occupation of such tenants should be regularly, though not necessarily formally, inspected, so that minor repairs to fittings, etc., may be carried out before the damage becomes worse by continued use. Trained housing estate managers have been remarkably successful in this work. The tenants have been found to respond readily to their help, while at the same time arrears of rent are kept to a minimum. In normal circumstances a single full-time manager is able to take charge of some 300 houses.

It is understood that twenty-eight authorities already employ trained housing estate managers, and the Minister feels that the question might with advantage receive wider consideration, especially where any appreciable number of persons removed from unsatisfactory surroundings are to be rehoused.

CENTRAL HOUSING ADVISORY COMMITTEE.

23. Section 24 imposes on the Minister the duty of setting up a Central Housing Advisory Committee, the personnel of which will be announced in due course. The Committee will be charged with the duty of advising the Minister on any representations made by a local authority under Section 4 of the Act for the issue of an order modifying the overcrowding standard, of advising Housing Management Commissions, of advising the Minister on any

housing question which he may from time to time refer to them and of considering the operation of the Housing Acts and making representations to the Minister with respect to matters of general concern arising under them.

OTHER AMENDMENTS OF THE HOUSING ACTS.

24. Compulsory Purchase.—The powers of a local authority to purchase property compulsorily are extended in two directions. Section 20 amends Sections 57 and 58 of the Act of 1925, so as to enable a local authority to acquire compulsorily any houses or other buildings which are or may be made suitable as dwelling-houses for the working classes, together with any land occupied with such houses or other buildings, or any estate or interest in such houses or buildings and land. These powers will enable a local authority to carry out schemes of reconditioning working class property where they are satisfied that this course is the most economical and desirable in all the circumstances. In particular, taken in conjunction with the extension of the Housing (Rural Workers) Acts, they should greatly assist rural authorities in dealing with their housing conditions.

In this connection local authorities are reminded of the duty laid upon them by Section 38 of the Housing Act, 1930—which applies equally to housing under the new Act—of having regard in their housing proposals to the desirability of preserving existing works of architectural, historic or artistic interest. Houses of this character will often be found in clearance areas or may occur as individual houses which, as they stand, are unfit for human habitation. Their number has, however, been rapidly diminishing and accordingly local authorities should be careful to see that in their operations they are not destroying property which it would be better, in the interest of the general amenity of their town, to preserve. It is not, of course, suggested that houses which are unfit for human habitation should be allowed to remain in use as houses, but there will often be cases where the architectural or other interest of the building would make it worth the while of the local authority to acquire it and carry out more or less extensive works of reconstruction which would enable the building to be kept in use, whether as a dwelling or for other purposes, for a long period of years.

Section 70 amends Section 58 (3) of the Act of 1925 so as to enable a local authority to purchase compulsorily for the purposes of Part III of the Act of 1925 land which the Minister considers is likely to be required within ten years.

25. Compensation on Compulsory Purchase.—Section 73 of the Act provides that where land is purchased compulsorily for the purposes of Part III of the Act of 1925, the compensation payable shall be assessed in accordance with the provisions of Part II of the Third Schedule to the Housing Act, 1930. The basis of compensation for such land is therefore assimilated to the basis of compensation for land other than land in a clearance area which is compulsorily acquired under Part I of the Housing Act, 1930.

Part II of the Third Schedule to the Housing Act, 1930, is itself amended by Section 90 of the new Act. A local authority claiming that compensation should be reduced owing to the premises being in a state of defective sanitation, or not in reasonably good repair, are required to furnish to the arbitrator and to the claimant a written statement setting out the alleged defects. The arbitrator is required to embody in his award a statement showing separately whether compensation has been reduced for any of the reasons set out in the Schedule, and, if so, the amount of reduction under each head.

26. Advances for House Purchase.—The limit on the market value of houses in respect of which advances may be made either under the Small Dwellings Acquisition Acts or under Section 92 of the Act of 1925, has been reduced in respect of advances made after the 31st October, 1935, to £800. Local Authorities should not, therefore, enter into any further commitments to intending borrowers in respect of houses above this value, unless they are satisfied that it will be possible for them to have the mortgage completed before the 31st October, 1935. The date on which the mortgage is executed is deemed to be the date of the advance under the Acts.

The rate of interest on advances under the Small Dwellings Acquisition Acts is now fixed, by Section 92, at $\frac{1}{4}$ per cent. over the rate, current one month before the date on which the terms of the advance were settled, charged by the Public Works Loan Board for housing loans to local authorities.

27. Byelaws.—The powers of a local authority to make byelaws relating to housing are amended and extended by Section 68 of the new Act. Such byelaws will in future be deemed to be made under Section 6 of the 1925 Act instead of being made under the Public Health Acts and the duty is laid upon a local authority to make such byelaws when required to do so by the Minister. The provision which limits the application of byelaws under Section 6 (except in an improvement area) to houses let in lodgings or to houses occupied by members of more than one family, is repealed. In future, therefore, such byelaws can relate to houses occupied by only one family, but the local authority is given the power to make some byelaws applicable to all houses, and others (e.g., registration with the local authority) applicable only to houses let in lodgings or occupied by members of more than one family. It will be seen that a local authority now have the power to propose byelaws providing for a minimum standard of fittings, structural equipment, etc., which will apply to all working class houses in their district.

The matters which hitherto could have been dealt with by byelaws made under Section 6 of the Act of 1925 are specified in that Section. The new Act makes two alterations. In the first place, the byelaws may now deal with the prevention of nuisances arising in a room or part of a building which is the subject of a closing order. In the second place, the reference to overcrowding is deleted in view of the general standard laid down by the new Act. In so far as a local authority have already byelaws in operation in their area which contain provisions relating to overcrowding, these provisions will cease to operate from the appointed day when the national overcrowding standard comes into force in their area. Model Byelaws* have been prepared and are available for the assistance of local authorities. The pamphlet summarising the principal provisions of the Housing and Public Health Acts in relation to the maintenance of dwelling-houses in a reasonably fit condition for human habitation has been revised and is now on sale.

28. Cleansing from Vermin.—Section 82 of the Act empowers a local authority to cleanse from vermin before it is demolished, any house to which a demolition order or clearance order applies. Where the authority are satisfied that a house ought to be cleansed in order to prevent the spread of vermin which might be caused by the distribution of the materials obtained by demolition, they may at any time between the date of confirmation of the clearance order (or date of making the demolition order) and the date on which the order becomes operative serve notice on the owner of their intention to cleanse, and the owner must not start demolition until the authority have cleansed the building and authorise him to proceed. If the owner is anxious to proceed with demolition he can serve a counter notice on the local authority requiring them to complete the cleansing within fourteen days.

The Minister hopes that local authorities will make full use of the powers conferred on them by this section in view of the importance of any step which will assist to prevent the dissemination of bed-bugs.

29. Minor Amendments.—Among other minor amendments effected by the new Act it appears necessary to mention only the following. Section 94 provides that in future, where a local authority build houses under Part III of the Act of 1925, whether subsidised or unsubsidised, the contract for those houses must contain a fair wages clause in the usual form, and the houses themselves must contain a fixed bath in a bathroom unless the authority have obtained the prior consent of the Minister to a departure from that requirement. The Sixth Schedule amends paragraph 1 of the Fourth Schedule to the Act of 1925 and provides that housing bonds shall bear interest at such rate as the local authority may determine at the time of issue.

* Series XIII. For securing the improvement of housing conditions.

Series XIII.B. Houses intended or used for occupation by the working classes and let in lodgings or occupied by members of more than one family.

MEMORANDUM B—THE PREVENTION AND ABATEMENT
OF OVERCROWDING.

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NOTE.—The forms and rules referred to in this Memorandum as having been prescribed will be found in "The Housing Acts (Overcrowding and Miscellaneous Forms) Provisional Regulations, 1935."

PART I.

1. Introductory.—Sections 1 to 12 of the Housing Act, 1935, together with the First Schedule, contain the specific provisions of that Act for the abatement and prevention of overcrowding. The general scheme is to provide a standard for measuring overcrowding, and, subject to suitable safeguards, to make it, as soon as practicable, a punishable offence to infringe that standard; to provide for a survey by every housing authority to ascertain the extent of overcrowding in their area and the places where it exists; and to secure that the new accommodation required to abate overcrowding is provided in the places where it is needed. Other provisions in the Act (in particular those relating to the re-development of overcrowded and congested areas, which are dealt with more fully in Memorandum C of this series) have a close bearing on the question of the effective action to be taken by local authorities in abating overcrowding, and these are referred to where necessary in this memorandum. The first part of the memorandum is mainly an outline of the provisions contained in Sections 1 to 12 of the Act. The second part deals in detail with the necessary steps to be taken by local authorities to carry out the survey which they are required to make, and the form in which the report on that survey and the proposals of the authority should be submitted to the Minister.

2. The Survey.—Section 1 imposes on every local authority the duty of carrying out an inspection of their district within a period to be fixed by the

Minister in order to ascertain what houses are overcrowded (as defined in Section 2 and the First Schedule) and of reporting the result to the Minister with their proposals for building new houses, or flats where necessary, to abate the overcrowding. The method of carrying out the survey is dealt with in detail in Part II of this memorandum.

Generally speaking, once a complete survey has been carried out and the overcrowding abated, there should be no need for any subsequent survey on the same scale, but to meet exceptional conditions provision is made for a further survey to be carried out by the local authority if they consider that occasion for it has arisen, or the Minister so directs.

The duty, imposed upon local authorities by Section 25 (1) of the Act of 1930, of reviewing the housing needs of their area from time to time remains in force, but Section 25 (2) of the 1930 Act which imposes on every urban authority with a population of over 20,000 the duty of making quinquennial surveys (in 1935, 1940, etc.) of the housing needs of their district, and submitting proposals to the Minister for meeting those needs, is repealed.

3. The Overcrowding Standard.—Section 2 and the First Schedule to the Act, set out the new overcrowding standard which, subject to any temporary modification made by order under Section 4 of the Act, is to apply throughout the whole country. It is relevant to point out that this standard does not represent any ideal standard of housing, but the minimum which is in the view of Parliament tolerable while at the same time capable of immediate or early enforcement. Local authorities providing housing accommodation for overcrowded persons who are to be displaced will be bound by the provisions of Section 37 of the 1930 Act as regards the number of persons who may be deemed to be properly accommodated in any replacement houses belonging to themselves.

The overcrowding standard consists of two parts. Section 2 (1) (a) provides that there must be sufficient sleeping accommodation in a house to secure proper sex separation. Section 2 (1) (b) is a standard of capacity, and in conjunction with Schedule 1, fixes in relation to the accommodation in any particular house the maximum number of persons, irrespective of sex, who may be permitted to sleep in that house at one time.

For convenience, the two tables in the First Schedule to the Act are here reproduced :—

Table I.

Where a house consists of—	The permitted number of persons is—
(a) One room	2
(b) Two rooms	3
(c) Three rooms	5
(d) Four rooms	7½
(e) Five rooms or more	10 with an additional 2 in respect of each room in excess of five.

(In using this Table, a room of less than 50 square feet is not counted as a room.)

Table II.

Where a room in a house has a floor area of—

(a) 110 sq. ft. or more	2
(b) 90 sq. ft. or more, but less than 110	1½
(c) 70 sq. ft. or more, but less than 90	1
(d) 50 sq. ft. or more, but less than 70	½
(e) Under 50 sq. ft.	Nil.

In the application of these tables account is only to be taken of rooms which are normally used in the locality either as a living room or as a bedroom.

In applying Table II, each room of the size mentioned is to be reckoned as capable of accommodating the number set out in the Table, and the aggregate for all the rooms in the house is ascertained in this manner. The "permitted

number" for the house is the aggregate number so obtained or the number given by Table I, whichever is the smaller.

It will be seen that if all the rooms in a house to which the Tables are to be applied are of 110 square feet or more in area only Table I will have to be used. Table II is to be applied only when one or more of these rooms is between 50 and 110 square feet in size. In such a case, the total number of persons which would be allowed under Table II according to the size of the rooms in the house is calculated. The number so reached will be the permitted number if it is less than the number given by Table I.

In considering the application of the standard in relation to particular families it is to be noted—

(i) that in the case of a house part of which is sub-let, the rooms occupied by the sub-tenant constitute a separate house (Section 12, definition of dwelling-house);

(ii) that children between the ages of 1 and 10 years count as half a person and that a child under 1 year of age does not count at all (Section 2 (2));

(iii) that apart from the number of persons who may occupy a house there is an overriding condition that the accommodation available for a particular family must be such that no two persons both of 10 years of age or over of opposite sexes, except persons living together as husband and wife, must sleep in the same room (Section 2 (1) (a));

(iv) that only rooms normally used in the locality for sleeping or living purposes are counted as rooms, so that bathrooms, sculleries, etc., are not counted as part of the accommodation (Section 12, definition of "room").

A few examples are appended.

Case 1. The House of 1 Room.

In this case the permitted number of persons is 2 according to Table I of the standard. If the room happens to be less than 110 square feet in area the permitted number of persons will be found in Table II. The following families could occupy a house of one room of normal size:—

- (a) A husband and wife with or without a child under 1 year of age.
- (b) One parent with 2 children under 10 years.
- (c) Any two adults of the same sex.

The following families could not occupy a house of one room without infringing the standard:—

- (a) Two adults of opposite sexes not living together as husband and wife, e.g., brother and sister, mother and son over 10 years of age, father and daughter over 10 years of age;
- (b) Any family where the total number of persons exceeds 2, e.g., father and mother with one or more children over 1 year of age.

If the room had a floor area of 95 square feet it could only accommodate $1\frac{1}{2}$ persons (Table II). Accordingly it would be overcrowded if occupied by a man and his wife but not if occupied, say, by one adult and one child under 10 years.

Case 2. The House of 2 Rooms.

The permitted number of persons for a house of 2 rooms is given by Table I as 3. In the following examples it is assumed that the rooms are of such areas that Table II does not operate, so that 3 is the permitted number of persons. Typical families who could live in such a house without infringing the standard are:—

- (a) Father, mother and 1 child over 10 years.
- (b) Father, mother and 2 children under 10 years.
- (c) Father, grown-up daughter and 2 children under 10 years.

In any of the above cases, of course, there might be in addition a child (or children) under 1 year of age.

The following families could not occupy a house of 2 rooms without infringing the standard :—

- (a) Parents with child under 10 years and child over 10 years (3½ persons).
- (b) Parents with 3 children under 10 years (3½ persons).
- (c) Father, grown-up son, grown-up daughter and 1 child under 10 years (3½ persons).

In the case of a 2-roomed house the sex separation part of the standard is always complied with if the permitted number of persons is not exceeded.

Case 3. The House of 3 Rooms.

According to Table I the permitted number of persons for a house of 3 rooms is 5. The following families could occupy a 3-roomed house, none of the rooms of which were of less than 110 square feet :—

- (a) Father, mother and 3 children over 10 years.
- (b) Father, mother, 2 children over 10 years and 2 children under 10 years.
- (c) Father, mother, grandmother and 2 children over 10 years.

The following families could not occupy a normal 3-roomed house without infringing the standard :—

- (a) Father, mother, 2 children over 10 years and 3 children under 10 years (5½ persons).
- (b) Father, mother and 4 children over 10 years (6 persons).

4. Overcrowding Offences.—Section 3 deals with the relation of the individual occupier or landlord to overcrowding. The general effect is that overcrowding existing at the appointed day (see paragraph 13) is not an offence until alternative accommodation has been offered and refused, but the creation after the appointed day of overcrowding in a house where it does not exist on the appointed day will be punishable.

By Section 3 (1) overcrowding after the appointed day is made an offence on the part of the occupier who causes it, and of the landlord who permits it. An offence is punishable by a fine not exceeding five pounds, with a further fine not exceeding two pounds per day in respect of each day on which the offence continues after conviction.

Section 3 (2) gives special protection to persons who are in occupation on the appointed day. Where there has been no change of occupier since the appointed day, and no addition to the occupants except by births, then notwithstanding that the house is overcrowded, no offence is committed by the occupier unless he refuses an offer of "suitable alternative accommodation" (defined in Section 12), or declines to take reasonable steps to get rid of some person who is not a member of his family (such as a lodger or sub-tenant) to whom suitable alternative accommodation has been offered. The removal of such a person might abate the overcrowding entirely; in any case it would ameliorate the conditions, and might justify the local authority in postponing further action until more urgent cases had been disposed of.

Section 3 (3) contains safeguards to cover the case where a family living in uncrowded conditions becomes overcrowded in course of time owing to increases in the number or ages of the children. These safeguards are general and apply to all occupiers whether or not they were in occupation on the appointed day. An occupier whose dwelling becomes overcrowded in the circumstances mentioned, provided that he has not subsequently increased the overcrowding by taking in additional persons, should apply to the local authority for alternative accommodation, and if he does so and does not refuse suitable accommodation which is offered to him, or fail in the particular case where it would be reasonable and practicable to ameliorate the overcrowding by the displacement of some lodger or sub-tenant (not a member of his family), will not be guilty of an offence.

Section 3 (4) gives a further safeguard where a house is overcrowded solely because a member of the occupier's family who does not normally live in the

house is temporarily residing with him. This provision is to protect an occupier where a son or daughter or other member of the family returns home for a short stay.

Section 3 (5) sets out the two cases in which a landlord can be prosecuted for an overcrowding offence. They are:—

(a) where the landlord or his agent is informed in writing by the local authority that his tenant is committing an overcrowding offence, and the landlord does not take steps, including, if necessary, an application to the Court to obtain possession, to put an end to the offence, and

(b) where on the letting of a house the landlord, or person letting it on his behalf, had reasonable cause to believe that it would be overcrowded, or did not enquire the number, age and sex of the persons who were going to occupy it.

It will be observed in connection with the first provision that Section 9 of the Act provides that in such a case the Rent Acts shall be no bar to the obtaining of possession by the landlord and that the obtaining of possession in such circumstances shall not lead to the decontrol of the house, while Section 10 confers on the local authority powers, analogous to the powers in Section 39 of the Housing Act, 1930, enabling them to take proceedings themselves for the eviction of the tenant.

The creation of new overcrowding must be prevented as far as possible, and the second provision will help to ensure that no landlord connives at or encourages its creation.

5. Temporary Modifications of the Overcrowding Standard.—

Section 4 gives the Minister the power, on the application of a local authority and after consultation with the Central Housing Advisory Committee, to modify temporarily the overcrowding standard in its application to houses in the district of a particular local authority or in any part of that district. It may be necessary to have recourse to this power in relation to exceptional areas where the normal housing accommodation available for the working classes is such that some considerable measure of overcrowding on the standard in the Act is unavoidable for a substantial period.

An order made under the section for the relaxation of the standard cannot operate for more than three years in the first instance, although it may be renewed. Any order may be revoked or varied, as circumstances may require, after consultation with the Central Advisory Committee.

The section sets out the circumstances which must exist before the Minister can make an order. They are that in the whole area of the authority, or in some defined part of it, a large proportion of the accommodation for the working classes consists either of (a) houses with a small number of rooms, or (b) houses with very large rooms, or (c) houses with very small rooms, and that in consequence the immediate application of the new standard would be impracticable in a particular district or in relation to particular types of houses. Normally, it is contemplated that any relaxation provided for by an order under Section 4 would apply to particular types of house and not to all the houses in an area.

Before the authority can be in a position to consider the necessity for a representation to the Minister that an Order under Section 4 should be issued, it will be necessary for them to have completed their survey and report under Section 1 of the Act in relation to the area in question, and so to have a general picture of what the conditions are likely to be on the appointed day. The Minister does not anticipate that any substantial number of local authorities will find it necessary to make representations under this provision.

6. Overcrowding Licences.—Section 5 gives a local authority power, on the application of an occupier or intending occupier of a dwelling-house, to issue a licence allowing that dwelling-house to be occupied for a limited period by a number of persons in excess of the permitted number for the house. Such a licence can only be granted when the local authority are satisfied that exceptional circumstances exist which make it expedient to do so, but it is

specially provided that exceptional circumstances in this sense may be held to include a seasonal influx of population into a town. The licence cannot continue in force for more than 12 months and may be revoked by the local authority at any time if they think this course desirable. Within seven days after issuing a licence to an occupier, the local authority must serve a copy of the licence on the landlord. While the occupier holds the licence and complies with any conditions attaching to it, he is not guilty of an offence. The form of licence and the form of revocation of a licence have been prescribed.

The power of a local authority to issue licences subject to such conditions as they think fit to impose will enable them to exercise control over temporary overcrowding which may be unavoidable. Such temporary overcrowding may arise in various circumstances. A not unusual case will be that of a family who are obliged to move, but cannot find at the moment any accommodation in which they will not infringe the standard. Apart from such individual cases, recourse to licensing might be necessitated by a temporary increase of the population of a small district caused (e.g.) by workmen carrying out constructional works. The Act itself contemplates that the circumstances of holiday resorts may be such as to require the issue of licences on rather a large scale.

In all cases where a licence is issued it is important to ensure that it is so framed as to permit only the minimum amount of overcrowding for the shortest possible time. This will be comparatively easy in the case of an application from an occupier for a licence to cover the occupation of a house by himself or by certain specified persons for a limited period, but in the case of licences granted to meet the circumstances of holiday resorts it will be necessary for the local authority to exercise special care. In many cases the application received by the local authority will take the form of a request for a general permit to take in visitors during the normal holiday season, and in the Minister's view it is desirable that in those circumstances any licence should cover any lettings during the season, so that an occupier would not have to make more than one application. On the other hand, the conditions of the licence should be determined by the circumstances of the case and in considering the degree of relaxation to be permitted, the local authority should have primary regard to the occupier's own family and the accommodation available for them. It would in suitable circumstances be proper for the local authority to make it a condition of the licence that at all times a certain specified number of rooms should be retained by the occupier for the exclusive use of himself and his family.

It will be necessary for the local authority to make arrangements for the keeping of records of all licences issued and of their period of operation.

7. Power to Obtain Information relating to Overcrowding.—Section 6 (3) of the Act confers on a local authority a power of entry into a house for the purpose of ascertaining the number of rooms occupied and the measurement of those rooms, so that they can ascertain the permitted number for the dwelling-house.

Section 8 makes it the duty of a landlord or his agent under penalty of a £2 fine, to inform the local authority when it comes to his knowledge after the appointed day that his house is overcrowded. This does not apply to overcrowding which existed on the appointed day or to overcrowding which has been notified to the landlord by the local authority or is covered by licence, but should secure the early notification of any fresh overcrowding which may occur.

Section 10 (3) of the Act provides that a local authority may serve notice on the occupier of a dwelling-house requiring him to furnish them within 14 days with a statement in writing of the number, age and sex of the persons sleeping in the house. The form of notice for this purpose has been prescribed. The occupier is liable to a fine of £2 if he does not comply with the request or knowingly makes a false statement.

The power to obtain information from occupiers will be useful to local authorities both in carrying out the survey required by Section 1 of the Act, and later in any case where they have reason to suppose that a house is

overcrowded. It is not suggested, however, that a local authority in the conduct of their survey should serve such a notice on every occupier. Their power should be used where an occupier refuses to give information to the officer of the authority making the survey.

8. Supply of Information by the Local Authority.—Section 6 (2) of the Act makes it the duty of the local authority on the application of the landlord or the occupier of a dwelling-house to inform him in writing of the permitted number of persons in relation to the house. This information will often be in the possession of the local authority as a result of the survey of their area. If it is not, it will be necessary to obtain it by inspection and in some cases measurement of the rooms. The Act does not specify the time within which this information must be supplied, but, as the permitted number is required to be inserted in rent books, it will be necessary to supply it some time before the date on which it becomes obligatory on a landlord to insert the information in the rent book (see paragraph 9).

Section 7 of the Act empowers a local authority to publish information for the assistance of landlords and occupiers of dwelling-houses as to their rights and duties in regard to the new overcrowding provisions. It will be observed that various provisions of the Act are expressed to come into force on an "appointed day" or six months after an appointed day. There will not necessarily be one appointed day for all purposes within the area of a local authority, and the appointed day for the same purpose may vary as between the areas of different local authorities. It is therefore essential that there should be local publicity to ensure that all persons concerned are fully aware of the dates on which the several provisions of the Act come into force. Section 7 will enable local authorities to post notices and take other effective steps for this purpose. It will also enable them if they think fit, to prepare leaflets setting out the main provisions of the Act affecting landlords and occupiers for distribution to persons seeking information. A judicious use of the powers conferred by this section may prove of great assistance in securing the enforcement of the overcrowding provisions.

9. Information in Rent Books.—Section 6 provides that, as from six months after the appointed day (i.e., the day appointed for the purposes of this section), all rent books or similar documents relating to working-class houses must contain a summary in a form prescribed by the Minister of those provisions of the Act relating to overcrowding which affect occupiers, together with a statement showing the permitted number of persons in relation to that house. A landlord who fails to comply with this requirement is liable on prosecution by the local authority to a fine of £10. To ensure compliance with these provisions, local authorities are empowered by Section 6 to call for the production of rent books, and any person who fails to produce the rent book within 7 days is liable to a fine of £2. The form of summary has been prescribed by the Minister.

10. Number and Size of Rooms.—As already mentioned the permitted number in respect of a dwelling-house is determined solely by the number and size of the rooms in that house, and local authorities have a right of entry to ascertain these facts. By Section 6 (5) of the Act a certificate of the local authority stating the number and floor areas of the rooms in a dwelling-house and that the floor areas have been ascertained in the prescribed manner is made, for the purposes of any legal proceedings, *prima facie* evidence of the facts stated therein. The rules for the measurement of floor areas have been prescribed by Regulations. Briefly, the rules are to the effect that the floor area is to be ascertained in the simplest possible manner without taking account of internal projections such as chimney-breasts, and that in the case of rooms with sloping ceilings, any part of the floor where the height is less than five feet is to be excluded.

11. Information to be supplied to the Minister.—In addition to the report which must be made to the Minister after the local authority have carried out the survey under Section 1 of the Act, it is provided that the Minister shall receive periodical reports of the progress made in dealing with

the abatement of overcrowding. For this purpose Section 11 provides that it shall be the specific duty of the Medical Officer of Health to report annually to the Minister as to conditions in relation to overcrowding, and in particular to furnish details with regard to dwelling-houses in which overcrowding has recurred after being abated by the local authority. Regulations dealing with this matter will be found in Draft Rules and Orders No. 83298 (relating to London) and No. 80146 (relating to the rest of the country).

12. Enforcement of the Overcrowding Provisions.—Section 10 of the Act provides that it shall be the duty of a local authority to enforce the overcrowding provisions in their area and that only a local authority can prosecute for an overcrowding offence. There is one exception to this. Where a local authority are themselves the landlords of houses and are guilty of an overcrowding offence, it is open to any person, with the consent of the Attorney-General, to take proceedings. The Minister is confident that local authorities can be relied upon to use their powers of prosecution with due discretion. The powers are necessary in order that local authorities may be fully armed to deal with the problem of overcrowding, but the normal procedure, even when the overcrowding constitutes an offence, will doubtless be to assist the overcrowded family to find other and more suitable accommodation and, if persuasion fails, to secure an order for their eviction. In practice if this normal procedure is followed it should rarely be found necessary to prosecute an occupier, although the power of prosecution must be used to meet the case of flagrant and repeated offences.

Section 10 (2) gives a local authority power to obtain vacant possession of a house which is overcrowded in such circumstances as to constitute an offence, if the occupier, after 14 days' notice in writing from the local authority, has not abated the overcrowding. In these circumstances the local authority may apply to a Court of Summary Jurisdiction for an order for vacant possession to be given to the landlord. Cases may arise in which a tenant complies with the authority's notice for a short time but then again overcrowds the house, but the local authority will be able, if the offence is repeated at any time within three months after the date of the first notice, without serving any fresh notice, to make the application to the Magistrate. The expenses of their proceedings will be recoverable by the local authority from the landlord, on whom, but for this special provision, the onus of taking proceedings would have fallen.

13. Appointed Days.—"Appointed day" is defined in Section 97 as such day as the Minister may appoint, and the Minister may fix different days for different purposes and different provisions of the Act and for different localities. The appropriate date for the "appointed day" for any purpose in any local authority's area will depend on the progress made under the Act. Strict enforcement of the law would be unreasonable until the local authority have made substantial progress in the provision of new accommodation which is required. On the other hand, if the "appointed day" is fixed appreciably later than this, there would be a risk of the recurrence of overcrowding in a dwelling which had already been decrowded and of a liability to find further alternative accommodation in respect of the same house.

The appointed day for the purposes of the insertion of notices in rent-books will not be fixed until local authorities have had time to obtain the information necessary to comply with requests for a statement of the permitted number in respect of any dwelling-house in their area.

14. Definitions.—The definitions appropriate to the overcrowding sections of the Act will be found in Section 12.

"Dwelling-house."—A dwelling-house is defined as any premises used as a separate dwelling by persons of the working classes or of a type suitable for such use. It therefore includes any part of a building which is used, or is capable of use as a separate dwelling by persons of the working classes. The part of a house occupied by a sub-tenant is therefore a separate dwelling-house for the purposes of the overcrowding provisions.

"Landlord."—A landlord is defined as the immediate landlord of an occupier or, in the case of a service tenancy, the employer of an occupier.

Thus the tenant of a whole house is the landlord in relation to the sub-tenant of part of his house.

"Agent."—An agent is defined as the person who collects the rents of a landlord or, in the case of a service tenancy, the person who pays remuneration to the occupier on behalf of the employer.

"Room."—A room is defined as not including any room of a type not normally used in the locality either as a living room or as a bedroom. It is further provided in the First Schedule that no room with a floor area of less than 50 sq. ft. shall be counted as a room. As the certificate of a local authority stating the number and sizes of the rooms in a house will be treated in any proceedings as *prima facie* evidence of the facts stated therein, it will be for the local authority in the first instance to determine whether or not any particular room is of a type normally used in the locality either as a living room or as a bedroom.

"Suitable alternative accommodation."—The definition of suitable alternative accommodation follows closely that contained in the Rent Restriction Acts. It means a dwelling-house in which the occupier and his family can live without overcrowding, and one which is certified by the local authority to be suitable to the needs of the occupier and his family as respects security of tenure and proximity to place of work, and to be suitable in relation to his means. If the house belongs to the local authority, they must also certify that it is suitable in extent, having regard to the standard in Section 37 of the 1930 Act. The form of certificate for this purpose has been prescribed. A local authority will generally have no difficulty in certifying accommodation which they themselves have provided. Where the alternative accommodation which is being offered to an occupier is accommodation provided by a private landlord, the local authority should assure themselves that the terms of the definition are being satisfied. In such cases a definite arrangement with the landlord to afford to the tenant reasonable security of tenure so long as he pays a rent which the authority regard as suitable to his means, will usually be necessary.

PART II.

15. The Duty of Inspection.—Section 1 of the Act makes it the duty of every local authority "before such dates as may be fixed by the Minister as respects their district, to cause an inspection thereof to be made with a view to ascertaining what dwelling-houses therein are overcrowded, and to prepare and submit to the Minister a report showing the result of the inspection" and of the necessary action which the local authority propose to take. The Act does not define any more closely the form which the inspection is to take; it must be such an inspection as will bring to light all cases of overcrowding. The date or dates to be fixed by the Minister must obviously have regard to the length of time which an inspection which will be adequate for the purpose in view will take, and this in turn depends on the arrangements made for carrying out that inspection. A comprehensive and detailed examination of all working class accommodation in the district, including the measurement of all the habitable rooms in every house, may be regarded as the ideal form of survey. Not only would it disclose accurately all cases of overcrowding, but it would provide a large amount of information including that required for the purpose of informing a landlord or occupier, on request, of the permitted number in respect of any dwelling-house. But such an inspection would be a lengthy proceeding, and though measurement will ultimately be generally necessary would be more elaborate than is necessary to comply with the duty imposed by Section 1. Accordingly the Minister, in considering the question of the dates which he shall fix under that section, has had in mind a more limited survey designed primarily to serve the specific objects of the section, namely to ascertain the amount of overcrowding and the amount of new accommodation required to abate that overcrowding. The kind of inspection contemplated is dealt with generally in the next paragraph and in detail in subsequent paragraphs of this memorandum. The Minister is satisfied that by working

on the method suggested or on some similar method, the inspection contemplated by Section 1 of the Act can be carried out by any local authority speedily and efficiently.

16. Method of Survey.—As the Act does not prescribe any particular method in which the inspection is to be carried out, local authorities are at liberty to use the method they consider most suitable. Whatever method is used, it is important to bear in mind that, in order to get an accurate picture of the position the inspection, once started, should be completed within the shortest possible time. Otherwise the movement of the population and other factors might invalidate the results. To assist local authorities, the Minister has drawn up in consultation with the associations of local authorities a procedure and forms of survey (appended to this memorandum) which, in his opinion, could with advantage be generally adopted and would enable local authorities to obtain speedily a comprehensive view of the overcrowding situation in their areas. Returns on a uniform basis are necessary to enable the Minister to obtain a complete picture of the housing conditions in the country as a whole, which is of the first importance for administrative purposes.

The general scheme contemplates a preliminary house to house survey of all working class houses in the area of a local authority. This survey will be directed as respects each such house only to the questions (a) whether it is empty, and (b) if it is occupied what is (i) the number of families and of persons in each family, and (ii) the number of rooms occupied by each family. The application to the facts so disclosed of Table I in the First Schedule (see paragraph 3 of this memorandum) will at once show a certain number of families to be overcrowded. This preliminary survey will not, however, disclose those families which, though not overcrowded when regard is had solely to the number of rooms in accordance with Table I, would nevertheless be found to infringe the standard when Table II, which takes account of the size of rooms, is applied. A family which is not overcrowded according to Table I but which is overcrowded when Table II is applied, must be very near the overcrowding level on Table I. It should accordingly be possible on the first survey to pick out all the cases which are likely to fall within the latter category and to arrange for a further inspection and measurement of the rooms in the houses concerned. It will of course also be necessary to measure the rooms in each house shown to be definitely overcrowded, in order to ascertain the exact extent of the overcrowding, but this step can await the completion of measurement in doubtful cases. The procedure to be followed and the appropriate forms of record to be used (Forms A and B) are dealt with in the appendix to this memorandum. It will facilitate the summarizing of the results obtained from the Forms if from the commencement arrangements are made whereby the forms relating to particular areas (e.g., wards) or particular classes of property are kept separate. For example, there might well be one set of forms relating solely to houses in the area owned by the local authority, while the arrangements should, if possible, ensure that the authority can separate those forms relating to houses which are likely to be dealt with under the slum clearance programme. It is suggested also that for ease of handling by the enumerators the forms should be printed in blocks of 100 with a cover on which are printed the instructions to the enumerators. Where this is done, the sheets should be provided with a perforated edge to facilitate removal of any particular form where this is necessary.

The Minister is satisfied that the house to house enumeration which forms the foundation of the return can be completed in a comparatively short space of time. It will necessitate in some cases the division of the areas of local authorities into separate districts and the employment of temporary staff, and arrangements for instructing that staff in their duties. As a result of consultations with representatives of local authorities, the Minister considers that one enumerator could reasonably be expected to visit, and complete the forms for, 300 houses per week. In making their arrangements the local authority should bear in mind that technical qualifications on the part of the enumerator are not essential; in many cases they may be

able to make temporary use of members of their staff normally employed on other work. Local authorities will doubtless consider the desirability of giving occupiers written intimation beforehand of the time and purpose of the enumerator's visit and of providing him with some suitable form of authorisation for production to the occupiers. It will be remembered in this connection that a local authority have power to enter and obtain particulars of occupation under the Act (see paragraph 7). The staff should in all cases be selected with due regard to the need for tact and courtesy and where measurement of rooms is necessary, only persons on whose accuracy reliance can be placed should be employed. If, at the date when the report on the inspection is to be submitted to the Minister, the authority have not been able to complete all necessary room measurements, they should not delay the submission. Their experience of the houses already measured will enable them to make a close estimate of the position of those still to be measured, and this estimate should be used to complete their report.

It is suggested that when Form B has been completed in respect of a particular house it should form the basis of the record of the local authority's action in dealing with the overcrowding in that house. For this purpose the back of the form, if provided with suitable headings to meet the needs of the locality, could conveniently be used.

17. The Record of the Inspection.—Whatever form of record is used, it is essential that it shall show the number of families found to be overcrowded and the sizes of those families, together with the amount of new accommodation which would be necessary to abate the overcrowding, regard being had to any existing vacant accommodation and the accommodation which would be rendered available by displacements. The Minister has thought it desirable to draw up a model form (Form C appended) in which the results of the survey can be presented to the local authority and to him.

Form C will be completed by a simple process of addition of the facts disclosed by the separate returns. It will be seen that the form is intersected by a diagonal line by the help of which the completed form will at once give a picture of the housing conditions (so far as density is concerned) of the working classes in the area concerned. The figures to the left of the diagonal line show the overcrowded families—those to the right the families which are not overcrowded. Further, the entries on the form will show as regards each size of overcrowded family the accommodation which it occupies and consequently the extent of the deficiency which has to be made up. And there are many other directions, such as the selection of the most pressing need requiring immediate alleviation, in which information of substantive importance to the housing authority can be derived from such a summary.

Form C may be completed either for the whole area of a local authority, for separate wards or other parts of that area, or for particular classes of houses, e.g., those belonging to a local authority or those included in the slum clearance programme of a local authority. In every case a form covering the whole area of the authority and forms covering the houses in the area belonging (a) to that authority and (b) to other local authorities are to be forwarded to the Minister, and should be accompanied by copies of any subsidiary forms which the local authority have prepared for their own purposes.

From the completed Forms C the authority will make their first rough estimate of the accommodation required to abate overcrowding. For this purpose there can be estimated from the form the total numbers of two-roomed, three-roomed, four-roomed, etc., houses which would be required to rehouse the families shown to be overcrowded. From these totals are to be deducted the number of houses of the same sizes which would be left vacant by the removal of the overcrowded families. The number of vacant houses of the same sizes which were vacant at the time of the survey should also be deducted. The resulting estimate of need, adjusted to take account of the difference between the overcrowding standard and the standard of Section 37 of the 1930 Act, would only be approximate, but in most cases would be sufficient to form the basis of at any rate the first rehousing proposals.

The survey, the report to the Minister on that survey incorporating Form C and the submission of housing proposals based on that report are to be carried through before dates which are, under Section 1 of the Act, to be fixed by the Minister who is now in correspondence with the Associations of Local Authorities on this matter and hopes to issue definite directions in the near future. But there is one further factor which will require consideration before the process of providing additional accommodation is completed, and this is the extent to which the overcrowding and the need of additional accommodation turns upon the presence of lodgers or sub-tenants, and at a later date it will be necessary again to analyse the individual forms collected in the course of the survey so as to deal with this factor. The Minister will address a further communication to local authorities in due course to deal with this matter, which is mentioned at the present stage merely to ensure that the survey forms (even if they are not, as they can be, used as the basis of future housing records in the area) are preserved for this purpose.

18. Proposals for Rehousing.—Section 1 of the Act provides that unless a local authority are satisfied that the necessary accommodation shown by their report to be required for the abatement of overcrowding will be otherwise provided, the local authority must prepare and submit to the Minister proposals for providing such accommodation. The financial assistance available to local authorities in connection with the provision of such accommodation is explained in Memorandum D.

As already indicated, the date by which the general proposals of the local authority should be in the hands of the Minister will be given in a later communication. Generally, no doubt, the necessary accommodation will take the form of cottages and there should be no difficulty in such cases in the submission by the local authority at an early date of specific proposals for providing such accommodation. In considering their proposals the authority must take into account the number of overcrowded unfit houses which will fall to be dealt with as unfit houses under their slum clearance programme under the 1930 Act and not under the new Act, and also the accommodation provided, or likely to be provided, by private enterprise. Many local authorities will find that they have a certain number of very large families to provide for who cannot be adequately accommodated in the type of house normally provided by them. To meet the needs of such families, a local authority may sometimes be able to acquire suitable existing houses and for this purpose the powers of compulsory acquisition conferred by Section 20 of the Act will be available, if necessary. In other cases the local authority may themselves have to build houses containing five or even six bedrooms. Where this is necessary an endeavour should be made so to plan the house that at a later date it can readily be converted into two houses suitable for the occupation of two families.

In the larger centres of population it may not be practicable to meet the needs of displaced families and others who, for industrial or other reasons, require accommodation in central areas otherwise than by building flats. Where it is necessary to use for rehousing expensive central sites the erection of flats will be the only adequate and reasonably economical method of development, and the Act, recognising this, makes provision for the payment of a special subsidy in such circumstances. The sites of clearance areas and such vacant sites in central areas as can be acquired will normally lend themselves to this method of development, but there will be areas where nothing short of the exercise by the local authority of their powers of redevelopment—more fully dealt with in Memorandum C—will meet the needs of the case. In submitting their proposals under Section 1 of the Act, local authorities who intend to exercise these powers should indicate how many of the total number of overcrowded houses, as disclosed by the survey, are situated in the part of their area to be redeveloped, and how many constitute the balance to be covered by the proposals submitted.

In submitting their proposals to the Minister, the local authority should give their estimate of the total number of houses of the various types and sizes

which they consider will be necessary. This total estimate will be based on the results of the analysis of Form C, as modified by other information in the possession of the local authority such as the effect of future demolitions and rehousing under the 1930 Act, the effect of building by private enterprise and the possibility of further cases of overcrowding arising in the near future by the growth of families in age and numbers. Where the amount of rehousing thus shown to be necessary is comparatively small, the local authority should submit specific proposals for the building of the total number of houses. Where, however, a substantial amount of rehousing is indicated as being required, the local authority should in the first instance submit specific proposals providing for only a proportion of the total number. In choosing the houses to be included in the first specific proposals, the local authority will of course have regard to the necessity for relieving the worst cases of overcrowding first and the first proposals should include houses of the proper types and suitably placed for this purpose. Form D appended to this memorandum is based on and largely reproduces the Form in which housing proposals have been submitted to the Minister. As revised it can conveniently be used for the submission of specific proposals based on the survey.

When the houses included in the first proposals of the authority have been completed they should, when submitting further proposals for building, furnish a report to the Minister showing how far the accommodation already provided has abated overcrowding and to what extent the accommodation rendered vacant by the removal of overcrowded families has been re-utilised. Experience gained in this way may lead the local authority to consider that their original estimate of need ought to be revised. In this connection it is relevant to point out that local authorities may often be able to make arrangements whereby the landlord of an overcrowded house, the occupants of which are being removed to alternative accommodation, may agree to accept as tenants persons from another house with the result that overcrowding in this other house is also abated. Often, too, a local authority may find that aged persons, owing to the lack of accommodation more suited to their needs, are occupying houses suitable for families, and in such a case the provision of houses suitable for aged persons may reduce the need for the provision of larger houses. Arrangements of this kind made with the agreement of all the parties concerned, may greatly reduce the amount of accommodation apparently necessary to abate overcrowding.

FORM A.

OVERCROWDING SURVEY.

No. of
premises in
rate book.

PRELIMINARY ENUMERATION.

- 1 Address or situation of premises
- 2 Name of occupier
- 3 Description of property

To be filled in by enumerator.

To be filled in at the office.

Names of tenants and sub-tenants.	Number of habitable rooms.	Number of persons normally sleeping therein.		Equivalent number of persons sleeping in the dwelling.	Permitted number.		Whether overcrowded.
		10 or over.	Under 10.		Actual.	Reduced.	
4	5	6	10.	7 (a)	7 (b)	7 (c)	7 (d)
(1)							
(2)							
(3)							
(4)							
(5)							

Enumerator

Date

FORM A.

Instructions to enumerators.

A separate form must be used for each structurally separate dwelling.

Entries 1 and 2.—May in some cases be filled in at the office in advance.

Entry 3.—Insert brief description of property, e.g., two-storied house, tenement house, etc.

Entry 4.—The name of each tenant and sub-tenant occupying a portion of the premises as a separate dwelling is to be entered here.

Entry 5.—Must only include rooms normally used as living rooms or bedrooms in the locality.

The age to be taken into account is the age on the birthday next *after* the date of the enumeration.

Note.—Particulars should be filled in as far as possible whether the house is occupied or not. When dealing with an empty house the enumerator should enter the word "none" under entry 4, and if it is not possible to obtain precise information as to the number of rooms he should enter his estimate under column 5, putting E after the number. Thus if he estimates that the house has 3 habitable rooms he should enter 3E in column 5.

Instructions to office.

Entries 1 and 2.—May be found in the rate book (if filled in at the office).

Entry 7(a).—This is calculated from entry 6. Persons over 10 count as 1. Persons under 10 count as $\frac{1}{2}$.

Entry 7(b).—This is the number calculated from 5 using column (b) in the table below.

Entry 7(c).—This is the number calculated from entry 5 using column (c) in the table below.

Entry 7(d).—If 7(a) is greater than 7(b) (i.e. definite overcrowding) put + + here.

If 7(a) is greater than or equal to 7(c) (i.e. possible overcrowding) but less than or equal to 7(b) put + here.

*Table.**

Number of habitable rooms. (a)	Permitted number.	
	Actual. (b)	Reduced. (c)
1	2	1 $\frac{1}{2}$
2	3	2 $\frac{1}{2}$
3	5	4
4	7 $\frac{1}{2}$	6
5	10	8
6	12	9 $\frac{1}{2}$
7	14	11
8	16	13
9	18	14 $\frac{1}{2}$
10	20	16
11	22	17 $\frac{1}{2}$
12	24	19

* This table is based on the assumption that in the ordinary dwelling, some of the rooms will be below 110 square feet in area, and that consequently the permitted number ascertained solely from number of rooms without regard to their size would normally be in excess of the exact permitted number. The allowance for this factor in the table given is about one-fifth. The Medical Officer of Health may, however, find a different factor more appropriate for his district, in which case he will amend the third column of the table accordingly.

OVERCROWDING SURVEY.

[illegible]

Instructions for filling in Form B. (At the House.)

A separate form must be used for each structurally separate dwelling.

The office will normally have filled up entries 1, 2, 3, 4, 5, but if any of these are left blank the inspecting officer should elicit the facts and fill them up at the inspection. The inspecting officer should append his initials and the date.

Entry 6.—The “landlord” means the immediate landlord of the occupier in column 5. Thus in the case of a sub-tenancy, the “landlord” will be the tenant letting out the sub-tenancy.

Entries 7 and 8.—These will include only the persons normally sleeping on the premises. For entry 8 the age of persons under 10 is to be entered in years and twelfths of a year (e.g. 5 years 9 months as $5\frac{9}{12}$), the age to be reckoned on the day of the month which corresponds with his birthday and follows next after the date of the inspection. Thus if a child was born on the 10th of January and the inspection is on the 20th of April, the age to be taken is the age on the 10th of May—i.e. so many years and 4 months; if he was born on the 25th of January the age to be taken would be that on the 25th of April.

Entry 9.—Normally the length and breadth will be entered—the area being computed and entered at the office—measurements being taken according to the instructions issued, but where rooms have a very awkward shape the inspecting officer should himself measure the floor area and complete entry 10.

Entries 11, 12, 13, 14, 15, 16 will be filled up at the office.

Instructions for filling in Form B. (At the Office.)

This form is to be filled up as far as possible at the office, but if there is any doubt as to facts (e.g., the responsible tenant) they should be left for the inspecting officer to elicit and fill in.

Entries 1, 2, 3, 4, 5 will normally be filled in at the office from Form A.

One Form is to be used for each house, the separate tenancies (1), (2), etc. being filled in from Form A. From the number of rooms given on Form A it will be possible to draw the line between the various tenancies. In practice it will probably be better to leave space for one or two rooms extra to avoid confusion if a mistake has been made on Form A.

Entries 6, 7, 8, 9 will be filled in by the inspecting officer, together with his initials and the date.

Entry 10 will normally be filled in at the office, but if it is not possible to measure length and breadth (e.g., if the room has a very awkward shape), the inspecting officer will have entered his estimate of the floor area.

Entries 11, 12, 13, 14, 15, 16 will be filled in at the office.

Entry 11 will be the number of persons allowed for each room according to Table II, having regard to the description of the room (rooms not normally used in the locality as living rooms or bedrooms should not be counted).

Entry 12 will be the sum of entries 11.

Entry 13 will be the number allowed under Table I.

[*N.B.*—No room under 50 square feet or not normally used as a living room or a bedroom in the locality may be counted.]

Entry 14 is the lesser of entries 12 and 13.

Entry 15 is calculated from entries 7 and 8 and is the number of persons of 10 or over plus half the number of children of 1 year or over, but under 10.

Children below 1 year will not be counted, but in making entry 15 due regard should be paid to the difference in the date of making this entry and the date entered by the inspecting officer on his inspection.

For example, if 3 months have elapsed, all children entered as of age $9\frac{9}{12}$, $9\frac{11}{12}$, $9\frac{11}{12}$, will be counted as of age 10 or over, and each must count as a whole unit and not a half. Similarly, all children of age $\frac{1}{12}$, $\frac{1}{12}$, $\frac{1}{12}$, must be entered as children between 1 and 10 years.

Entry 16 will be made at the same time as entry 15. A + sign should be put:—

(a) If the number under 15 exceeds that under 14; or

(b) If there are insufficient rooms to allow of proper segregation of the sexes for persons of 10 or over.

Entry 17 should be filled in for those houses which if still occupied by the same family (which includes children under 10) are likely to become overcrowded within two years. The entry will be the month and the year, one month after which the house would be overcrowded. For example, if the survey is made in January, 1935, for a house having a permitted number of 3 persons and the occupants are a man, wife, one child entered as $\frac{4}{3}$ and another as $8\frac{7}{8}$, then in 7 months the number of "persons" will be 3, and in 1 year and 5 months it will be $3\frac{1}{2}$, i.e., the house will be overcrowded. The "date for review" will then be 1 year and 4 months after January, 1935, i.e., May, 1936, and the entry will be $\frac{5}{8}$.

Table I.		Table II.	
No. of rooms.	Permitted No. of persons.	Size of rooms.	Permitted No. of persons.
1	2	110 sq. ft. or over	2
2	3	90 sq. ft. or over, but under 110 sq. ft.	$1\frac{1}{2}$
3	5	70 sq. ft. or over, but under 90 sq. ft.	1
4	$7\frac{1}{2}$	50 sq. ft. or over, but under 70 sq. ft.	$\frac{1}{2}$
5	10	Under 50	Nil.
and two persons extra for each additional room. No room under 50 sq. ft. should be counted.			

Instructions for Completing Form C.

This Form is a summary of the information obtained from Form A and Form B, and the particulars in relation to every house covered by those Forms should be entered whether or not the house is overcrowded.

The Form printed on next page deals with families up to a size corresponding to $8\frac{1}{2}$ "persons"; the Form actually used must of course extend sufficiently far to deal with the largest family in the district covered by the Form.

The method of compilation is simple. In any individual case the number of persons in the family (i.e., the *line* on the Form) will be given in Form B or in column 7 (a) of Form A and the permitted number in the dwellings occupied (i.e., the *column* of the Form) either in Form B or, where this Form has not been completed, in column 7 (c) of Form A. For example, if the entries on Form A are 3 persons, in column 7 (a) of the Form, and 2 persons in column 7 (c) of that Form, a note will be made in Form C in line 3 of column 2 as indicated by x.

Cases where overcrowding exists will fall below the stepped diagonal line, and the worst cases will be those which are farthest from this line.

The totals column at the side is obtained by adding the entries on each line. The total at (a) in each line is the sum of the entries in the line in the spaces to the left of the diagonal; that at (b) is the sum of the entries to the right of the diagonal.

(If desired similar totals of columns could be inserted at the foot of the Form.)

OVERCROWDING SURVEY.

REPORT.

1. Name of Local Authority
2. Area to which the Form relates.....

1. Name of Local Authority
2. Area to which the Form relates.....

[illegible]

Signature.....Town Clerk or Clerk of the Council.

MEMORANDUM C—THE REDEVELOPMENT OF OVERCROWDED AREAS.

SUMMARY.

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1. Introductory.—The existence of serious overcrowding in the central parts of some of the cities and larger urban areas constitutes a special problem which the efforts of public and private enterprise have so far notoriously failed to solve. It is recognised that a solution cannot be found in new building, however intensive, on sites more or less remote from the areas affected, and special provisions have been introduced as the basis of effective action to deal with the evil. These central overcrowded areas contain aggregations of houses, often let out in parts to several families though ill adapted for the purpose, which are largely occupied by persons who for various reasons, including the desire to be near their place of work, are unwilling or unable to move far from their present homes. The resultant pressure on the limited accommodation available frequently produces overcrowding in an acute degree. Bad development, with mean and narrow streets, is usually a characteristic of such areas, the houses and other buildings being congested and arranged in a manner least calculated to secure adequate and economic use of the valuable sites which they occupy. The only way in which the overcrowding in such areas can be materially alleviated is by the provision within the areas of suitable accommodation for as many persons as the sites which are, or can be made, available will allow, if adequately developed in accordance with modern standards. As such areas usually contain few, if any, vacant sites, the problem resolves itself into clearing away a large part of the existing buildings and redeveloping the cleared sites. Provisions have accordingly been inserted in Part I of the new Act which will arm local authorities with the necessary power to clear these congested areas and redevelop them on modern lines. Where certain specified conditions calling for the exercise of these powers are found to exist in any area within the jurisdiction of an urban authority, it will be the duty of the authority, by resolution and definition on a map, to declare the particular area to be a redevelopment area, and to take the further action for securing the necessary redevelopment which is detailed in later paragraphs of this Memorandum.

2. The Importance of Proper Planning.—The statutory provisions contemplate a close connection between the treatment of redevelopment areas and town planning. One of the specified conditions which must exist before an area can be declared a redevelopment area is that "it is expedient in connection with the provision of housing accommodation for the working classes that the area should be redeveloped as a whole", and the Act specifically requires that, in the preparation of a redevelopment plan, regard is to be had to the provision of any planning scheme or proposed scheme relating to the area and neighbouring land.

These two objects, the provision of adequate housing accommodation and the correlation of the development thereby entailed with the provisions of wider planning schemes, must therefore be borne in mind from the commencement by a local authority proposing to operate the redevelopment provisions of the new Act.

Once they have decided that the conditions in a particular part of their area are such that it becomes their duty to declare a redevelopment area, the actual limits of that area will depend almost as much on planning considerations as on housing and financial considerations. From the very earliest stage of their proceedings, therefore, it is essential that the Housing Committee and the Town Planning Committee should work in the closest co-operation. How this is to be arranged should receive the careful consideration of the local authority, and the Minister does not wish to urge any particular method beyond suggesting that in many cases joint sittings of the two Committees would be helpful. This co-operation must obviously continue throughout the preparation of the redevelopment plan. If there is any planning scheme in existence or in preparation relating to the area, the redevelopment plan will naturally follow this scheme. If there is no such scheme in existence or contemplation, the redevelopment plan will as regards the area affected be the practical equivalent of such a scheme. It is essential, therefore, that any redevelopment plan proposed by a local authority should have the full concurrence of the Planning Committee.

3. Financial Considerations.—It will frequently be the case that the local authority will find themselves faced with the problem of rehousing in a redevelopment area at least the same number of working class families as now reside there. Both for this reason, and also to secure the proper utilisation of the expensive sites, the rehousing will normally take the form of the erection of blocks of flats of three or more storeys in height over a considerable portion of the redevelopment area. The estimated cost of the site will be known, and from this the rate of the Exchequer subsidy per flat and of contribution from the rates can be calculated by reference to the Table given in the Third Schedule to the Act (see also Memorandum D of this series), while in the case of property which is unfit for habitation the Exchequer subsidy and rate contribution under the 1930 Act will be known. So far, therefore, as the redevelopment area is to be used for rehousing, the authority will be able to form estimates of the capital cost of redevelopment and of the annual charges to be met. Where, as will often be the case, the whole redevelopment area is to be used for such rehousing, no other considerations will arise. Where, however, part of the area is to be developed for purposes other than housing, the local authority must from the first have regard to the fact that after the plan has been approved, it will be their duty to buy any land in respect of which effective arrangements have not been made for compliance with the plan, either by continuance of the existing user, or by redevelopment where the plan contemplates a change of user, and to hold that land until they can sell or lease it on terms which secure that it is used or redeveloped in accordance with the plan. A local authority may for the first few years of the scheme have to meet the loan charges on the capital cost of the land they have purchased without a corresponding income, but ultimately they may reasonably expect to be fully recouped for their expenditure. Such temporary charges in the first years of the scheme would necessarily fall on the rates, as the transactions relating to land in the redevelopment area not to be used for rehousing will not form part of the Housing Revenue Account.

4. The Bill as introduced contemplated that redevelopment areas would not be found necessary as a means to secure the improvement of housing except as regards the largest towns. In the course of discussion in Parliament it appeared that there might well be smaller towns in which housing difficulties could not be entirely met either by slum clearance or by the provision of additional houses on the outskirts of the built-up area, and accordingly the Act as passed confers the redevelopment powers on all urban authorities.

5. The Redevelopment Area.—Section 13 lays down the conditions which must exist in an area before it can be declared a redevelopment area. They are (a) that the area contains 50 or more working class houses; (b) that at least one-third of the working class houses in the area are overcrowded or unfit for human habitation and not capable at reasonable expense of being

rendered so fit, or so arranged as to be congested ; (c) that the industrial and social conditions of the local authority's district are such that the area should be used to a substantial extent for rehousing ; and (d) that it is expedient in connection with the provision of housing accommodation that the area should be redeveloped as a whole.

Such an area should include all the property within a continuous line. It may include properties belonging to the authority and properties which the authority cannot, or do not propose to, interfere with in any way. Such properties might, for example, be churches, railway property or properties belonging to private owners the user of which it is not proposed to change.

Where a local authority find that the foregoing conditions exist in relation to any area in their district, it is their duty to declare the area to be a redevelopment area. They should—

- (1) Define the area on a map.
- (2) Pass a resolution declaring the area so defined to be a proposed redevelopment area.
- (3) Publish in one or more newspapers circulating in their district a notice stating that the resolution has been passed and naming the place where a copy of the resolution and map may be inspected.
- (4) Forward to the Minister a copy of the map and of their resolution.

The map should be on a scale of not less than 1/2500.

In submitting the copies of the map and resolution, the Council should inform the Minister, if the facts are not already given in the resolution, of the number of working-class houses in the area and the number which have been found to be overcrowded or which, in the opinion of the authority, are unfit for human habitation and not capable at reasonable expense of being rendered so fit, or are so arranged as to be congested, giving separately the number of houses in each such category. They should also furnish the Minister with a copy of each of the local newspapers containing the notice relating to the resolution.

6. The Redevelopment Plan.—Section 14 provides that within six months after passing the resolution declaring a redevelopment area or within such extended period as the Minister may allow, the authority are to prepare and submit to the Minister a redevelopment plan for the area.

The plan is to show the manner in which the area is intended to be laid out and the land used whether for existing purposes or for purposes which necessitate redevelopment. In particular, it must indicate the land intended to be used for working-class houses, for streets and for open spaces. It is not either necessary or practicable for the plan to prescribe in detail the precise sites of particular buildings which will be permitted, but it should indicate the general purposes—industrial, commercial, and so forth—for which the land is to be appropriated. As explained below, the method of securing the development and use of the land for these purposes will be that of imposing contractual obligations on the owners.

If the local authority desire an extension of the six months period in any case, they should apply to the Minister at least one month before the expiration of the statutory period setting out their reasons for desiring the extension. Apart from this, the general procedure will be as follows :—

- (1) The redevelopment plan should be prepared by the Housing and Planning Committees of the Council acting in co-operation and should be approved by the authority. The plan should be on a scale sufficient to show with precision the lines of the streets, the land to be used for working-class houses and the land to be kept for open spaces, and should show generally by the use of distinctive colouring the purposes for which it is proposed that the other land in the area should be used. The plan should also show clearly any properties in the area which the redevelopment would leave untouched. It is very desirable that the plan should be prepared in accordance with the instructions contained in a Memorandum, T. & C.P.5, relating to the

preparation of planning maps, issued by the Minister in February, 1935. Copies of this memorandum can be obtained by application to the Ministry.

(2) Notice in the prescribed form should be published in one or more local newspapers stating that a plan has been prepared, naming the place where it can be inspected and specifying the time within which, and the manner in which, objections to the plan can be made.

(3) Notice to the same effect should be served in the prescribed form on every owner, lessee and occupier (except tenants for a month or less) of any land in the area and on every local authority, company, body or person owning mains, pipes, electric lines, etc. in the area.

(4) The Minister should be furnished with—

(a) copies of newspapers containing the advertisement and of notices ;

(b) certificate of service of notices ;

(c) certified copy of the redevelopment plan ;

(d) a formal resolution of the authority applying for approval of the plan.

(5) If objections are made to the plan and are not withdrawn, a public local inquiry will be held.

(6) The Minister may approve the plan with or without modifications, and notice of the Minister's approval must be published in local newspapers and sent to those objectors who appeared at the Inquiry. The Minister has prescribed forms of notice for this purpose.

If, after a plan has been approved, the local authority desire to modify the layout of any of the land included in the approved plan, it will be necessary for them to submit a new plan covering the area of which the layout is to be modified, and before this new plan can be approved, the procedure appropriate to a redevelopment plan must be complied with.

The provisions of subsections (3), (4) and (5) of Section 11 of the Act of 1930 apply to the Minister's approval of a redevelopment plan as they apply to the Minister's confirmation of orders under the 1930 Act. In effect, this means that the Minister's approval becomes operative six weeks after the publication of notice of his approval unless within that time the validity of his action has been questioned by proceedings taken in the High Court.

7. Redevelopment by Owners.—It is explained in paragraphs 14 and 15 of Memorandum A that owners wishing to carry out a scheme for the redevelopment of their own property may submit plans of their proposals to the local authority. If the property in question is included in an area which is likely to be declared a redevelopment area by the local authority in the near future, the authority, in considering such proposals, should take steps to satisfy themselves that they are not likely to conflict with any redevelopment plan they have in mind. If the property is included in an area which has already been declared to be a redevelopment area, the local authority, in lieu of considering the owner's proposals themselves, may treat them as objections to their own proposals for dealing with the area and submit them to the Minister for his consideration when dealing with the subsequent redevelopment plan.

8. The Carrying out of the Plan.—Once the plan has been approved by the Minister, it will rest with the local authority to secure that the redevelopment shown in the plan is carried out. The work of constructing new streets, providing new housing accommodation and open spaces, will be carried out by the local authority themselves or under arrangements made by them with a housing association, but the remaining development will fall to be carried out by private enterprise.

(a) **Redevelopment for Housing.**—It may sometimes be possible for a local authority to make arrangements with the owners of property in the area to be used for rehousing whereby those owners will themselves redevelop the property in conformity with the plan. Any such arrangements should secure to the satisfaction of the authority that the new housing accommodation will

be suitable to the needs of the persons for whom it is required. Where arrangements of this kind cannot be made, the local authority should endeavour to purchase the land by agreement, and failing this, must, before the expiration of six months from the date on which the approval of the plan becomes operative, submit a compulsory order to the Minister. A local authority is not empowered however to purchase compulsorily the property of a local authority or of statutory undertakers. The period of six months may be extended by the Minister on the application of the authority. Any such application for extension should reach the Minister at least one month before the expiration of the fixed period.

The form of compulsory purchase order to be used has been prescribed by the Minister, and the land acquired will be deemed to have been purchased under Part III of the Housing Act, 1925, so that all the powers of dealing with such land which are conferred on local authorities by Section 59 of that Act will apply. They also have all the additional rights and powers to deal with the land which they have in the case of land in a clearance area which is the subject of a compulsory purchase order. They may make and submit orders to the Minister for the closing of streets, and they may remove or divert pipes, mains, etc. in those streets.

(b) Redevelopment other than for Housing.—A local authority should endeavour to make arrangements whereby the existing owners of land in the redevelopment area or other persons undertake to carry out the redevelopment, or in a case where no change of user is contemplated, to continue the existing use of the land in accordance with the plan. Section 78 gives the authority power to enforce covenants against any persons deriving title under the covenantor. In so far as such arrangements have not been made, it is the duty of the local authority to purchase the land in the area by agreement, or within two years from the date when the scheme becomes operative to submit compulsory purchase orders for the acquisition of the property. This date may be extended by the Minister on the application of the authority. Local authorities are empowered to acquire compulsorily land outside the redevelopment area for the purpose of providing accommodation for persons occupying premises within it which the authority propose to purchase. Where a local authority have purchased land—other than land for housing purposes—in a redevelopment area, they are empowered, with the consent of the Minister, to sell or lease that land subject to the condition that it shall be redeveloped in accordance with the redevelopment plan, and have the same powers of closing streets, etc., as they have in the case of land in a clearance area which has been compulsorily acquired.

It is essential that the conditions on which the land is disposed of should ensure not only proper redevelopment but also that the use of the land when redeveloped should accord with the plan, and that there should be no danger of the area slipping back into its previous condition. In deciding whether to dispose of the freehold of the land or to grant leases, the local authority should bear this point in mind. In some cases it may be desirable to supplement the contractual obligations imposed on the purchasers or lessees of the land by provisions in a planning scheme.

9. Unfit Houses in a Redevelopment Area.—A redevelopment area will normally contain a number of houses which are unfit for human habitation and not capable at reasonable expense of being made so fit. The existence of such houses may have been one of the grounds upon which it became the duty of the authority to declare the redevelopment area, but once this step has been taken, there is nothing in the redevelopment sections of the new Act which in any way prevents a local authority from taking any action under the 1930 Act which is called for by the circumstances. They may, for instance, serve closing orders and demolition orders as if the redevelopment area had not been declared. This course may be desirable, for example, where the owner wishes to be left with the site to develop it himself. In many cases, however, the proposals of the local authority will involve the acquisition of these unfit houses, and in order to avoid duplication of procedure, it is provided that where a local authority submit a compulsory

purchase order relating to property in a redevelopment area, the houses which they consider to be unfit for human habitation and not capable at reasonable expense of being rendered so fit are to be distinguished in the order. The provisions of Section 63 of the Act will be applicable, so that it will be necessary for the local authority to inform persons objecting to the compulsory purchase of houses as unfit houses of the principal grounds on which their property is considered unfit, in the same way as if the property had been dealt with under the 1930 Act. Unless the Minister modifies or rejects the order, the result so far as the unfit property is concerned, will be the same as if that property had been comprised in a compulsory purchase order relating to property in a clearance area, that is to say, the basis of compensation will be site value and the rehousing subsidy under the Act of 1930 will be available (Section 35 (1) of the Act). Where such property is included in a confirmed order, Section 88 of the Act applies, Section 41 of the Act of 1930 (power to make allowances to certain persons displaced), and Section 64 of the Act (payments in respect of well-maintained houses) will also apply.

10. Basis of Compensation.—Apart from the unfit houses dealt with in the preceding paragraph, the basis of compensation for property in a redevelopment area which is purchased by the local authority is that laid down in Part II of the Third Schedule to the Act of 1930 as amended by the new Act. The basis of compensation will therefore be the same as for any property (other than unfit property) purchased under the Housing Act powers, but in assessing compensation, the arbitrator is directed to have regard to, and to make an allowance in respect of, any increased value which in his opinion will be given to other premises of the same owner by the proposed redevelopment of the area in accordance with the redevelopment plan.

The new provision described in Memorandum A of this series relating to the compensation of statutory undertakers whose pipes, mains, cables, etc., are removed or diverted by the local authority in the course of their proceedings (Section 91) applies to redevelopment areas as well as to clearance areas.

11. Rehousing.—Section 18 provides that where suitable accommodation is not available for working-class persons displaced during redevelopment, the local authority shall provide or secure the provision of such accommodation in advance of the displacements. Where, therefore, the site to be used for rehousing is already covered with working-class houses, it will be necessary for the local authority to make arrangements for rehousing some of the persons elsewhere for a time at any rate in order to enable them to make a start with rehousing. The rehousing will normally take the form of blocks of flats of three or more storeys in height, and the rate of Government subsidy available where such flats are erected on expensive sites is dealt with in Memorandum D of this series. Only in exceptional circumstances would the Minister be prepared to approve of blocks of flats exceeding five storeys in height. In submitting to the Minister for his approval their rehousing proposals, a local authority should furnish layout plans as well as plans and elevations of the buildings to be erected and details of the method of construction proposed.

The Minister considers it to be most desirable that each flat should, so far as possible, be equipped with a private balcony. One advantage of a private balcony as distinct from the access balcony is that babies can sleep in the open, free from disturbance—a factor which is undoubtedly of great importance to health. The Minister considers that this aspect of the question is so important that in cases where the provision of the normal family type of balcony is, for any reason, impracticable, the local authority should consider the question of providing a small balcony to each flat with free access to light and air and of sufficient size to accommodate a baby, and he is advised that such a balcony can be installed at no great cost if provision is made for it during the construction of the flats. Where balconies are constructed for babies, it is important that adequate safeguards should be provided and instructions given in their proper use.

The Departmental Committee appointed by the Minister to report on materials and methods of construction suitable for the building of blocks of

flats, with special reference to efficiency and cost, has recently issued an Interim Report which will doubtless be of service to local authorities. The staff of the Ministry is available to local authorities for consultation and guidance on questions of planning and siting. Some typical plans will be found in the Manual of Rehousing Operations issued by the Department in 1933.

MEMORANDUM D—FINANCIAL PROVISIONS.

Note.—See for financial provisions Circular 118/46 of the 12th July, 1946, p. 584, *ante*.

MEMORANDUM E—CONSOLIDATION OF HOUSING CONTRIBUTIONS AND ACCOUNTS.

(*Note.*—See also Circular 118/46 of the 12th July, 1946, p. 584, *ante*.)

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I.—INTRODUCTORY.

1. This Memorandum describes in some detail the provisions for the consolidation of contributions and accounts relating to houses belonging to local authorities which are contained in Sections 40 to 53 of the Housing Act, 1935, and in the Fourth and Fifth Schedules thereto.

2. The main object of the scheme of consolidation embodied in the above-mentioned provisions is the removal of the administrative difficulties which have arisen as a result of the diversity of the special conditions hitherto governing the rents of houses belonging to local authorities in respect of which Exchequer contributions are payable under the series of Housing Acts passed since 1918.

These special conditions will no longer be applicable and, subject to certain general conditions which are referred to in paragraph 36 of this Memorandum, local authorities will in future be free to deal with their houses as a whole, the contributions payable in respect of the houses from the Exchequer and from local rates in any given year being pooled and carried to one account, called "The Housing Revenue Account."

3. The Act provides, as part of the arrangements for the pooling of the various housing schemes of local authorities, that in future the Exchequer contributions in respect of schemes carried out by local authorities under the Act of 1919 are to be based on estimates of the annual losses on the schemes and prescribes the method by which the estimates are to be made. A detailed explanation of the new method of determination of these Exchequer con-

tributions is given in paragraphs 14-17 of this Memorandum ; the contributions will be varied as fluctuations occur in the annual produce of the penny rate and in the annual loan charges, but will not be affected by future fluctuations in rent income or in expenditure on the supervision and management and repair of the properties included in the scheme.

4. The provisions in the Act relating to the consolidation of housing contributions and housing accounts are only applicable to authorities who are local authorities for the purposes of Part III of the Housing Act of 1925, i.e., they do not apply to County Councils in respect of houses erected by them for their employees.

II.—HOUSING REVENUE ACCOUNT.

5. Section 42 of the Act imposes upon each housing authority an obligation to keep as from the 1st April, 1935, a Housing Revenue Account relating to :—

(a) all dwelling houses for the working classes and other buildings which have been erected or acquired by the authority as housing authority since the 6th February, 1919 ;

(b) all land which at any time after the 6th February, 1919, has been acquired or appropriated by the authority for the purpose of the provision of housing accommodation for the working classes ;

(c) all dwellings belonging to the authority in respect of which they have received assistance under the Housing (Rural Workers) Act, 1926, as amended by Section 38 of the Act of 1935.

The authority may, with the consent of the Minister, bring into the account any other working-class houses belonging to them (Section 42 (d))—for example, houses built or acquired by them before the 6th February, 1919.

6. Section 43 (1) sets out in detail the credits and debits which are to be included in the Housing Revenue Account for the year 1935-36 and for each subsequent financial year. The account is to be credited with amounts equal to the undermentioned items of income in respect of the houses, buildings, land and dwellings to which the Housing Revenue Account relates, viz. :—

(a) the income of the authority for that year from rents (exclusive of any amounts included therein in respect of rates or water charges) ;

(b) the aggregate of the Exchequer contributions payable to the authority for that year ;

(c) the aggregate of the contributions payable by the authority for that year out of the general rate fund (the amounts of the contributions to be calculated in the manner indicated in Part IV of this Memorandum) ;

(d) in the case of a rural district council, the aggregate of the contributions payable by the county council to the Council for that year ;

(e) the aggregate of the grants payable to the local authority for that year under Section 1 of the Housing (Rural Workers) Act, 1926.

The account is to be debited with amounts equal to the undermentioned items of expenditure in respect of the houses, buildings, land and dwellings to which the Housing Revenue Account relates, viz. :—

(i) the loan charges which the local authority are liable to pay for that year ;

(ii) the rents, taxes and other charges (except rates and water charges) payable by the authority for that year ;

(iii) the expenditure incurred by the authority for that year in respect of supervision and management ;

(iv) the contribution, if any, which must be made in that year to the Housing Repairs Account required to be kept by Section 45 of the Act (see Part V of this Memorandum).

(v) the contribution, if any, which must be made in that year to the Housing Equalisation Account required to be kept by Section 46 of the Act (see Part VI of this Memorandum).

7. Section 43 (3) provides that where any house, building, land or dwelling to which the Housing Revenue Account relates, or would have related if it had remained in the possession of the authority at the 1st April, 1935, is or has been sold or otherwise disposed of, an amount equal to any income of the authority arising from the investment or other use of capital money received by the authority in respect of the transaction is to be carried to the credit of the Housing Revenue Account, unless in special circumstances the Minister otherwise directs.

8. Section 43 (4) is a special provision to cover the exceptional cases where a local authority has borrowed for housing purposes to which the Housing Revenue Account relates, moneys which prove to be in excess of the sums required for those purposes, and the surplus cannot be repaid immediately.

An amount equal to the income of the authority resulting from the investment or other use of such surplus moneys is to be credited to the Housing Revenue Account. This amount will be an offset to the loan charges which will fall to be debited to the Account. Even if the authority concerned is not in possession of any working-class houses, a Housing Revenue Account must nevertheless be kept for the purpose of entering these credit and debit items together with any other items such as Exchequer contributions which may be appropriate to the account.

9. Section 43 (5) empowers the Minister to direct whether particular items of income and expenditure should be brought into the Housing Revenue Account. An authority should obtain the Minister's directions where they are uncertain whether any items should be included in or excluded from the account. It will normally be necessary for the directions of the Minister to be obtained as to the adjustments to be made in the account where an authority appropriate for housing purposes some houses or land originally bought for other purposes, or where an authority appropriate for other than housing purposes some houses or land originally bought for housing purposes.

10. It will be seen from Part IV of this Memorandum (paragraph 29) that if at the end of any financial year a deficit is shown in the Housing Revenue Account the deficit is to be made good by an additional contribution from the general rate fund. Under Section 44 (1) any surplus existing at the end of a financial year may be used in making good to the general rate fund any additional contributions which may have been made from that fund to meet deficits on the account during the preceding four years. Any remainder of the surplus is to be carried forward to the credit of the Housing Revenue Account for the following year, subject to the exceptions indicated in the next paragraph.

11. At the close of the financial year 1939-40 and of every five years thereafter local authorities are required to review the position of their Housing Revenue Account. If at the end of any of the quinquennial periods there is a surplus in the account after the general rate fund has been recouped for any additional contributions made therefrom during the preceding four years, it is to be applied, with the Minister's consent, in the manner specified in Section 44 (2).

12. The ways in which a quinquennial surplus may be applied are :—

- (a) by transferring it to the Housing Repairs Account ;
- (b) by carrying it forward to the Housing Revenue Account of the next year ;
- (c) by refund to the Minister and the general rate fund respectively of any remainder of the surplus when all reasonable allocations of this nature have been made. The amounts so repaid to the Minister and the general rate fund are to be proportionate to the amounts which the Exchequer and the general rate fund have contributed to the Housing Revenue Account during the quinquennial period.

III.—EXCHEQUER CONTRIBUTIONS TO BE INCLUDED IN THE HOUSING REVENUE ACCOUNT

13. The Act requires each local authority to carry to the credit of their Housing Revenue Account for each year an amount equal to the aggregate of the Exchequer contributions payable for that year under the enactments specified in Part I of the Fourth Schedule to the Act. The methods by which the Exchequer contributions payable under Section 7 of the Act of 1919 and Section 1 (3) of the Act of 1923 are to be determined are set out in Part II of the Fourth Schedule to the Act and are explained in the following paragraphs. The other Exchequer contributions to be accounted for in the Housing Revenue Account are fixed amounts per house or per person.

It should be noted that consolidation of subsidies is only applicable to the subsidies payable in respect of houses belonging to local authorities and does not extend to the Exchequer grants payable in respect of houses provided, with the assistance of local authorities, by private enterprise, Public Utility Societies, etc.

A.—CALCULATION OF EXCHEQUER CONTRIBUTIONS UNDER THE ACT OF 1919.

14. Part II of the Fourth Schedule to the Act is designed to secure that the amount of the Exchequer contribution for the year 1935–36 and each subsequent year in respect of a scheme carried out by a local authority under the Act of 1919 shall be the amount, if any, by which the estimated loss on the scheme for the year exceeds an amount equal to the produce of a rate of one penny in the pound in the authority's area in the year. The main items to be taken into account in arriving at the estimates of the annual loss arising from the carrying out of such a scheme are to be calculated on the following basis (see paragraphs 3–7 of Part II of the Fourth Schedule) :—

Income.

(a) The estimated annual rent income, i.e., a fixed amount equal to the yearly equivalent of the weekly rents which as at the 31st March, 1935, are accepted by the Minister for the purpose of the determination of the Exchequer contribution payable in respect of the scheme ;

Expenditure.

(b) A fixed amount equal to the aggregate of the two following sums :—

(i) a sum bearing the same proportion to the estimated rent income (as defined above) as the aggregate amount of the normal charges in respect of supervision and management, repairs, unoccupied houses and irrecoverable rents, bore to the aggregate amount of the accepted gross estimated rent income during the five years ended the 31st March, 1935 ;

(ii) a sum equal to 2 per cent. of the estimated rent income (as defined above) ;

(c) The actual amount of the loan charges for the year in respect of money borrowed for the purposes of the scheme (subject to a limitation as to the rate of interest that may be taken into account on a re-borrowing), reduced by the amount, if any, of loan charges for the year relating to expenditure not approved by the Minister for the purpose of the determination of the Exchequer contribution.

The amount at (b) (i), so far as it relates to repairs, will fall to be determined by reference to the normal charges in respect of repairs (generally annual contributions of sums equivalent to 15 per cent. of the gross estimated rental) included in the Housing (Assisted Scheme) Revenue Accounts during the five years ended the 31st March, 1935, which have been admitted as ranking for Exchequer subsidy. No account is to be taken in the determination of the amount at (b) (i) of charges admitted to rank for Exchequer subsidy during the said five years in respect of repairs of an abnormal and non-

recurring nature or in respect of arrears of rent which accrued in exceptional circumstances.

The amount at (b) (ii) is a comprehensive additional allowance by the Exchequer to meet possible future contingencies generally.

15. Prior to the 1st April, 1935, Exchequer subsidy was being paid to some authorities wholly or partly on the basis of the estimated loss on their schemes under the Act of 1919, voluntary agreements to this end having been made under the provisions of Section 45 of the Act of 1930. Paragraph 6 of Part II of the Fourth Schedule provides that these agreements are to remain in force.

16. Paragraph 7 of Part II of the Fourth Schedule gives the Minister power to make an equitable adjustment of the Exchequer contribution payable in respect of a scheme under the Act of 1919, in cases where the number of dwellings included in the scheme is changed after the 31st March, 1935, as the result of the sale of any houses, the closing or demolition of huts, or the transference of houses to another local authority in consequence of an alteration of boundaries.

17. Paragraph 8 of Part II of the Fourth Schedule defines the method by which the produce of a penny rate (which a local authority are required to contribute towards the loss on a scheme under the Act of 1919) is to be ascertained in the year 1935–36 and subsequent years. The method of ascertainment is the same as was prescribed in the Local Authorities (Assisted Housing Schemes) Amendment Regulations, 1931.

B.—CALCULATION OF EXCHEQUER CONTRIBUTION UNDER SECTION 1 (3) OF THE ACT OF 1923.

18. Paragraph 9 of Part II of the Fourth Schedule is designed to secure that the estimates of losses on slum clearance schemes under the Act of 1923 shall, as far as possible, be made in the same way as the estimates of losses on schemes under the Act of 1919. A few of the first mentioned schemes, however, have only recently been completed or are not yet complete, and some present exceptional features. The ordinary procedure laid down in paragraphs 3 to 7 of Part II of the Fourth Schedule may have to be modified to some extent in these cases, and the paragraph empowers the Minister, subject to the approval of the Treasury, to make such modifications as he may consider to be necessary. The modifications as approved by the Treasury are set out in Appendix II to this Memorandum.

IV.—METHOD OF ASCERTAINMENT OF CONTRIBUTIONS TO BE MADE BY A LOCAL AUTHORITY OUT OF THE GENERAL RATE FUND IN RESPECT OF HOUSES INCLUDED IN THE HOUSING REVENUE ACCOUNT.

19. Section 41 of the Act makes it a condition of the right of a local authority to receive any Exchequer contribution that the authority shall as from the 1st April, 1935, make out of the general rate fund the contributions which are specified in Part III of the Fourth Schedule. The annual contributions from the general rate fund in respect of houses erected under the various Acts are to be as follows:—

20. **Rate Contributions in the case of a scheme carried out under the Act of 1919.**—The contribution for any year within the period during which loan charges in respect of moneys borrowed for the purposes of the scheme remain payable, is to be an amount equal to the produce of a rate of one penny in the pound levied in the area of the local authority, together with the amount, if any, of the loan charges in respect of money borrowed for expenditure in connexion with the scheme which was not approved by the Minister for the purpose of the determination of the Exchequer contribution. If the annual loss is less than the produce of a penny rate, the contribution will be the amount of such annual loss (see paragraph 1 of Part III of the Fourth Schedule).

21. Rate Contributions in the case of houses built under Section 1 (1) (b) of the Act of 1923.—A contribution is to be made in respect of each house for the remainder of the period of 20 years from the completion of the house. Subject to the exceptions referred to in paragraph 25 the contribution for any year is to be an amount equal to the amount of the Exchequer contribution payable in respect of the house for that year or an amount equivalent to the average annual contribution made by the authority in respect of the house during the five years ended the 31st March, 1935, whichever is the less (see paragraph 2 of Part III of the Fourth Schedule).

22. Rate Contributions in the case of slum clearance schemes carried out under Section 1 (3) of the Act of 1923.—The contribution for any year is to be an amount equal to the amount of the Exchequer contribution payable for that year in respect of the scheme, together with the amount of any loan charges on expenditure incurred by the authority in connexion with the scheme which was not approved by the Minister for the purpose of the determination of the Exchequer contribution (see paragraph 3 of Part III of the Fourth Schedule).

23. Rate Contributions in the case of houses in respect of which an Exchequer contribution is payable under Section 2 of the Act of 1924.—A contribution is to be made in respect of each house for the remainder of the period of 60 years from the completion of the house. The contribution for any year will normally be the equivalent, on a 60 year basis, of an annual sum of £4 10s. od. for 40 years, in the case of a house completed prior to the 1st October, 1927, or of an annual sum of £3 15s. od. for 40 years in the case of a house completed after the 30th September, 1927. Where, however, the county council are making an annual contribution under Section 34 of the Act of 1930 towards the expenses incurred by a rural district council in connexion with the provision of a house the county council's contribution is to be deducted from the figure of £4 10s. od. (or £3 15s. od.) in calculating the rate contribution.

Again, where a local authority were charging, immediately prior to the 1st April, 1935, rents which, although complying with the special rent condition of Section 3 (1) (e) of the Act of 1924 (or of Section 1 (7) of the Act of 1931) involved an estimated annual rate loss less than the equivalent, on a 60 year basis, of an annual sum of £4 10s. od. per house for 40 years (or in the case of houses completed after the 30th September, 1927, £3 15s. od. per house for 40 years) the rate contribution is to be such lesser sum per house. In such circumstances it will be necessary for the local authority to determine the estimated annual rate loss, and a convenient method of calculation is as follows :—

(a) Deduct from the total annual rent income based on the weekly rent chargeable immediately prior to the 1st April, 1935, the annual amount estimated to be required for repairs, management, etc.

(b) Determine the capital value of the remainder (on the basis of a period of 60 years and the average rate of interest payable during 1934-35 on the related debt).

(c) Deduct (b) from the total capital expenditure.

(d) From the remainder, deduct the capital value of the total amount of the Exchequer contribution receivable (on the basis of a period of 40 years and the same rate of interest as at (b)).

(e) The balance will represent the capitalised rate contribution for 40 years. In order to ascertain the 60 year annuity equivalent this should be converted at the same rate of interest as at (b).

The amount at (e) represents the total estimated annual rate loss for 60 years, from which the average amount per house to be contributed out of the general rate fund can be calculated. (See also paragraph 25.)

24. Rate Contributions in the case of houses in respect of which an Exchequer contribution is payable under Section 26 of the Act of 1930. (See paragraph 5 of Part III of the Fourth Schedule.)—A contribution is to be made in respect of each house for 60 years, or for the remainder of the

period, as the case may be, of 60 years from the completion of the house. The contribution for any year is to be the equivalent, on a 60 year basis, of an annual sum of £3 15s. for 40 years. Where, however, the county council are making an annual contribution under Section 34 of the Act of 1930 towards the expenses incurred by a rural district council in connexion with the provision of a house the county council's contribution is to be deducted from the figure of £3 15s. in calculating the rate contribution. (See also paragraph 25.)

25. Paragraph 9 of Part III of the Fourth Schedule empowers the Minister, where money has been borrowed for a shorter period than 60 years for the erection of houses under the Acts of 1924 and 1930, to approve that shorter period as the period during which the rate contributions in respect of such houses should be provided. Where such a reduced period is approved, the amount of the annual rate contribution will be correspondingly larger for the reduced period. The same paragraph empowers the Minister to sanction a reduction in the amount of the rate contributions in respect of houses erected by an authority under Section 1 (1) (b) of the Act of 1923, or under the Act of 1924, or under the Act of 1930, where the authority has provided prior to the 1st April, 1935, a substantially larger amount for the repayment of money borrowed for expenditure in connexion with the erection of the houses than would normally have been so provided by that date.

26. Rate Contributions in the case of housing accommodation provided for the purposes of Part I of the Act of 1935.—Section 34 of the Act makes it the duty of a local authority who are receiving an Exchequer contribution under Section 31, 32, or 33 of the Act in respect of a flat or house, to make a rate contribution for a period of 60 years from the date of its completion. The contribution for any year is to be the equivalent, on a 60 year basis, of the appropriate one of the undermentioned sums :—

(a) in the case of a flat in respect of which Exchequer assistance is given under Section 31 of the Act, one-half of the amount of the Exchequer contribution provided annually for a period of 40 years ;

(b) in the case of a house or flat in respect of which Exchequer assistance is given under Section 32 of the Act, one-half of the amount of the Exchequer contribution provided annually for the period during which such contributions will be payable ; and

(c) in the case of a house provided for members of the agricultural population in respect of which Exchequer assistance is given under Section 33 of the Act, a sum of £1 provided annually for a period of 40 years.

The period during which contributions are to be made from the general rate fund is fixed at 60 years as that is the normal period for loans for house building. Some local authorities, however, make arrangements for the repayment of such loans within a shorter period, and the proviso to Section 34 empowers the Minister in such a case to approve that shorter period (not being less than that for which the Exchequer contribution is payable) as the period during which the rate contributions shall be provided. Where such a reduced period is approved, the amount of the annual rate contribution will be correspondingly larger for the reduced period.

27. Rate Contributions in the case of a house which has been improved by the authority with Exchequer assistance under Section 4 of the Housing (Rural Workers) Act, 1926, as amended by Section 38 (2) of the Act of 1935.—Section 39 of the Act provides that a rate contribution is to be made in respect of each house, and that the contribution is to be a sum equal to the amount of the Exchequer contribution and is to be payable for the same period as that contribution.

28. Calculation of 60 years equivalent of Local Authorities' annual contributions out of the general rate fund.—As indicated in the paragraphs immediately preceding, the amount of the annual rate contribution in the case of a house erected by an authority with Exchequer assistance

under the Act of 1924, the Act of 1930, or the Act of 1935, will normally be calculated by reference to a period of 60 years.

In making the calculations it will first be necessary to ascertain the capital value of the annual rate contribution deemed to be payable for a period of 40 years and then spread this capital sum as an annuity over a period of 60 years.

The rate of interest to be used in the calculation should be the approximate average rate chargeable on the related debt

(a) during the year ended the 31st March, 1935, in the case of houses completed on or before that date ;

(b) during the year of completion in the case of houses completed after the 31st March, 1935.

29. Deficit in the Housing Revenue Account.—Paragraph 8 of Part III of the Fourth Schedule requires that where there is a deficit in any year in the Housing Revenue Account the amount of the deficit shall be made good by the local authority by means of an additional rate contribution. (As stated in paragraph 10 of this Memorandum a surplus in the Housing Revenue Account in any year may be used to recoup the general rate fund in respect of any such additional contributions which have been made during the preceding four years.)

V.—HOUSING REPAIRS ACCOUNT.

30. Section 45 of the Act makes it a duty of a local authority required to keep a Housing Revenue Account to set up as from the 1st April, 1935, a Housing Repairs Account. The authority is to credit to the Repairs Account each year such sum as they think proper, subject to a minimum of 15 per cent. of the annual rents (exclusive of rates and water charges) of the houses included in the Housing Revenue Account, together with such amount, if any, as may be necessary to make good any deficit shown in the Repairs Account at the end of the preceding year. Existing repairs funds are to be wound up, and any money standing to their credit transferred to the new statutory Repairs Account. The money in the Repairs Account is to be used only for the specific purpose of repair and maintenance of the property in respect of which the Housing Revenue Account is kept. If at any time it appears to the Minister, after consultation with the local authority, that the amount in the Repairs Account is more than sufficient for the purposes for which the Account is to be kept, or that it is no longer necessary to keep the Account, he may give directions for the reduction or suspension of further credits to the Account or for the closing of the Account and the application of any moneys standing to its credit.

VI.—HOUSING EQUALISATION ACCOUNT.

31. Every local authority keeping a Housing Revenue Account is required under Section 46 of the Act to set up a Housing Equalisation Account, unless they satisfy the Minister that it is not necessary for them to do so, in which case he may give such directions as he thinks proper in the circumstances. The object of this Account is to equalise so far as practicable the income of the Housing Revenue Account derived from Exchequer contributions and contributions from other local authorities throughout the period during which the loan charges required to be debited to that account will be payable.

32. Section 46 requires the Minister to prescribe the sums which are to be credited to the Equalisation Account and Regulations relating to this matter have been made.

33. The Regulations provide that as a general rule a local authority shall transfer to the Housing Equalisation Account in the year 1935-36 and in each subsequent financial year a sum equal to the one-seventh part of the total amount of the contributions payable to the authority for that year by the Exchequer and the county council in respect of houses erected by the

authority under the Acts of 1924 and 1930 and under Sections 31 and 33 of the Act of 1935.

The Regulations, however, empower the Minister to approve the transfer to the Equalisation Account in any year of a larger or smaller amount than the sum normally prescribed where an authority satisfy him that, having regard to the arrangements made for repaying money borrowed for expenditure in connexion with the provision of the houses to which the Housing Revenue Account relates, or for some other reason, there are sufficient grounds for such action. The Regulations also provide for transfers to be made to the Equalisation Account in respect of Exchequer contributions payable in respect of houses erected under Section 1 (1) (b) of the Act of 1923 or under Section 32 of the Act of 1935, where the local authority satisfy the Minister that such transfers are expedient or necessary.

Section 46 (3) of the Act enables the Minister to direct that an Equalisation Account need not be opened, or need not be kept for the time being, or may be closed, if he is satisfied that the circumstances of the local authority justify the issue of such a direction. Some local authorities, in order to avoid difficulties which arise when the period during which loan charges are payable does not coincide with the period of payment of Exchequer contributions, have made special borrowing arrangements by which a great part of the loan charges will come to an end at the same time as the Exchequer contributions. In such cases it will not be necessary for the authority to open an Equalisation Account. Other local authorities may wish to defer the opening of an Equalisation Account to a later date, when the loan charges will have been reduced by the redemption of loans raised for a shorter period than that during which Exchequer contributions are payable, e.g., loans raised for the provision of roads and sewers in connexion with the houses. In other cases an Equalisation Account may become unnecessary, e.g., if all the houses concerned are sold.

34. Temporary application of moneys in Housing Repairs Account and Housing Equalisation Account.—Section 47 of the Act makes provision for the temporary application to capital purposes (subject to certain conditions laid down in the Section) or for the investment of such moneys standing to the credit of the Housing Repairs Account and the Housing Equalisation Account as are not for the time being required for the purpose for which they will ultimately be applicable.

VII.—UNIFICATION OF CONDITIONS AFFECTING LOCAL AUTHORITIES' HOUSES.

35. The varying special conditions hitherto governing the rents of local authorities' houses in respect of which Exchequer subsidies under certain of the Housing Acts are payable are repealed as from the date of the coming into operation of the Act of 1935 (Section 52 and the Fifth Schedule) and, subject to the observance of certain general obligations specified in the next paragraph of this Memorandum, local authorities are free to deal with these houses as a whole irrespective of any special conditions of the particular Act under which Exchequer assistance was provided.

36. The new general obligations which must be observed by a local authority are specified in Section 51 of the Act; for convenience of reference the Section is reproduced here :—

(1) A local authority for the purposes of Part III of the Act of 1925 shall, in relation to all dwelling houses and dwellings in respect of which they are required to keep a Housing Revenue Account, observe the requirements specified in the following provisions of this section.

(2) The authority shall secure that in the selection of their tenants a reasonable preference is given to persons who are occupying insanitary or overcrowded houses, have large families or are living under unsatisfactory housing conditions.

(3) The authority shall secure that a number of dwelling houses or dwellings equal to the number of those in respect of which—

(a) the authority have received assistance under section one of the Housing (Rural Workers) Act, 1926; or

(b) the Minister has undertaken to pay a contribution to the authority under the subsection which by section thirty-eight of this Act is directed to be inserted in section four of the Housing (Rural Workers) Act, 1926;

are reserved for such persons as are mentioned in paragraph (a) of subsection (1) of section three of that Act, except in so far as the demand for housing accommodation in the district of the authority on the part of such persons can be satisfied without such reservation.

(4) The authority shall secure that a number of dwelling houses equal to the number of those in respect of which the county council has undertaken to make a contribution to the authority under subsection (2) of section thirty-four of the Act of 1930, or are required by subsection (3) of section thirty-four of this Act to make a contribution to the authority, are reserved for members of the agricultural population, except in so far as the demand for housing accommodation in the district of the authority on the part of members of the agricultural population can be satisfied without such reservation.

(5) In fixing rents the authority shall take into consideration the rents ordinarily payable by persons of the working classes in the locality, but may grant to any tenant such rebates from rent, subject to such terms and conditions, as they may think fit.

(6) The authority shall from time to time review rents and make such changes, either of rents generally or of particular rents, and rebates (if any) as circumstances may require.

(7) The authority shall make it a term of every letting that the tenant shall not assign, sub-let or otherwise part with the possession of the premises, or any part thereof, except with the consent in writing of the authority, and shall not give such consent unless it is shown to their satisfaction that no payment other than a rent which is in their opinion a reasonable rent has been, or is to be, received by the tenant in consideration of the assignment, sub-letting or other transaction.

37. Each local authority should review, in the light of these general obligations, the rents at present charged for their houses. It will be seen that the Act contemplates the fixing of standard rents in relation to the general level of working-class rents in the locality. It will, however, be open to local authorities to fix differing standard rents for different types or groups of houses, and to grant rebates from the standard rent in particular cases according to the circumstances of the tenants. A continuous supervision of rents should be exercised so as to ensure that any alterations justified by changes of circumstances are made from time to time.

38. Special attention is drawn to the requirement that, in the selection of tenants for houses to which the Housing Revenue Account relates, reasonable preference is to be given to persons occupying insanitary or overcrowded houses, to large families or to persons living under unsatisfactory conditions. This requirement must be read with the new generalisation of the power of a local authority to grant in suitable cases rebates from their standard rents. The power will be of special service as a means of dealing with a person whose housing conditions are such as to require the provision of alternative accommodation but whose means are insufficient to enable him to meet the standard rent of any available house.

VIII.—TIME AND MANNER OF PAYMENT OF EXCHEQUER CONTRIBUTIONS.

39. Section 48 of the Act provides that contributions to be made by the Minister to a local authority under any enactment in the Housing Acts, 1919 to 1935, are to be payable at such times and in such manner as the Treasury

may direct and subject to such conditions as to records, certificates, audit or otherwise as the Minister may, with the approval of the Treasury, impose.

The conditions as to records, certificates, audit or otherwise, as approved by the Treasury, appear in Appendix I to this memorandum.

40. It will be noted that in the case of a scheme carried out under the Act of 1919, and in the case of a rehousing scheme carried out under Section 1 (3) of the Act of 1923, the local authority is required to forward to the Minister each year a statement certified by the Chief Financial Officer of the authority and by the District Auditor showing the particulars necessary for the determination of the Exchequer contribution payable in respect of the scheme. To enable this to be done, separate records will have to be kept of the loan charges on each scheme and of any income derived from the investment or other use of moneys relating to the scheme.

If a local authority have a rehousing scheme under Section 1 (3) of the Act of 1923 which is still incomplete, they are required to keep a separate account in respect of the scheme up to the end of the year in which it is completed.

41. With the approval of the Treasury, payments on account of Exchequer contributions may be made periodically to local authorities and the balances will be paid after the claims of the authority have been examined by the District Auditor and his report has been made. Forms will be supplied for the purpose of claiming grants.

IX.—MISCELLANEOUS.

42. **Default of Local Authority.**—Section 49 (1) of the Act empowers the Minister to withhold the whole or any part of any Exchequer contributions payable to a local authority where he is satisfied that they have either (a) failed to discharge any of their housing duties or (b) failed to observe any of the conditions subject to which Exchequer contributions are payable.

43. **Sale of land or houses.**—Section 53 of the Act provides that if any house, building, land or dwelling in respect of which a local authority is required to keep a Housing Revenue Account is sold the Minister may impose such conditions and make such consequential reductions of the Exchequer contributions and contributions from the general rate fund payable to the Housing Revenue Account as he thinks just.

44. **Liability in respect of damage by fire.**—The liability for making good damage by fire or, alternatively, for insurance against fire in the case of houses in schemes subject to the provisions of the Act of 1919, or of Section 1 (3) of the Act of 1923, will now fall upon the local authority, as in the case of houses provided under other Acts. The authority should therefore consider at once the steps to be taken to meet their liability in this respect.

45. **Housing Management Commission.**—Section 43 (2) of the Act provides that if a local authority set up a Housing Management Commission, the provisions in the Act relating to the keeping of a Housing Revenue Account are to be modified in such manner as the Minister considers necessary.

46. **Application to London.**—The general provisions as regards the consolidation of Housing Contributions and Accounts are subject, in their application to the County of London, to the modifications set out in Part IV of the Fourth Schedule to the Act.

APPENDIX I.

CONDITIONS OF GRANT APPROVED BY TREASURY.

The conditions as to records, certificates, audit or otherwise made by the Minister of Health under Section 48 of the Housing Act, 1935, and approved by the Treasury are as follows :—

I. *Housing, Town Planning, etc., Act, 1919 (Section 7).*

As soon as may be after the conclusion of each financial year the local authority shall forward to the Minister a statement certified by the Chief Financial Officer of

the local authority and by the District Auditor showing in a form to be provided by the Minister such particulars as may be necessary for the determination, in accordance with the provisions of Part II of the Fourth Schedule to the Housing Act, 1935, of the Exchequer contribution payable to the authority for the year under Section 7 of the Housing, Town Planning, etc., Act, 1919.

II. *Housing, etc., Act, 1923 (Section 1 (3)).*

(i) The local authority shall keep separate accounts in respect of each scheme towards which contributions are made under Section 1 (3) of the Housing, etc., Act, 1923, up to the end of the year in which the scheme is completed.

(ii) As soon as may be after the end of each financial year during which the scheme is being carried into effect the local authority shall forward to the Minister a copy of the Revenue Account and Balance Sheet certified by the District Auditor.

(iii) As soon as may be after the conclusion of each financial year following the year in which the scheme is completed the local authority shall forward to the Minister a statement relating to that scheme certified by the Chief Financial Officer of the local authority and by the District Auditor showing, in a form to be provided by the Minister, such particulars as may be necessary for the determination, in accordance with the provisions of Part II of the Fourth Schedule to the Housing Act, 1935, of the Exchequer contribution payable to the authority for the year in respect of the scheme.

III. *Housing Act, 1923, and Housing (Financial Provisions) Act, 1924.*

The Treasury conditions as to registers, records and certificates set out in Circular 520 dated the 20th August, 1924, shall remain in force, except that in the case of houses provided by the local authority with assistance under Section 2 of the Act of 1924 it shall not be necessary for the authority to make any further entries in the registers in regard to "appropriate normal rents", rents charged, or estimates of annual loss.

IV. *Housing (Rural Workers) Acts, 1926 and 1931.*

The Treasury conditions as to registers, records and certificates set out in Circular 756 shall remain in force as regards dwellings in respect of which grants are made under Section 1 of the Act of 1926, except that in the case of dwellings belonging to a local authority who are required to keep a Housing Revenue Account it shall not be necessary for the local authority administering the Acts to enter in the register any particulars as to occupation and rent.

In the case of a dwelling owned by a local authority administering the Acts, in respect of which the Minister has undertaken to make a contribution to the authority under the subsection which by Section 38 of the Housing Act of 1935 is directed to be inserted in Section 4 of the Act of 1926, the following conditions shall apply:—

1. The local authority shall enter in the register the following particulars:—
 - (a) Address or situation of dwelling;
 - (b) Estimated cost of works as approved by the Minister, and references to schedule of works and to Minister's approval of estimate;
 - (c) Reference to the Minister's undertaking to make a contribution;
 - (d) Amount of the Minister's annual contribution;
 - (e) Date of completion of works of reconstruction or improvement;
 - (f) Reference to certificate of completion of works by Surveyor or other authorised officer.

Where the local authority is not an authority who are required to keep a Housing Revenue Account they shall enter in the register the following additional particulars:—

- (g) Normal rent of dwellings;
- (h) Maximum rent chargeable under Section 3 of the Act of 1926.

2. A certificate by the Surveyor or other authorised officer of the council shall be obtained to the effect that the whole of the works in respect of which the Minister has undertaken to make a contribution have been completed, that the said works have been inspected by him, or under his instructions, and have been carried out in a proper and workman-like manner.

V. *Housing Act, 1930.*

The Treasury conditions as to registers, records and certificates set out in Appendix I to Circular 1138, as supplemented by General Housing Memorandum 71, shall remain in force subject to the following modifications:—

- (i) the provisions in (f) of Part I of Appendix I to Circular 1138 shall not apply,

(ii) the following provisions shall be substituted for those in (g) of Part I of Appendix I to Circular 1138 :—

Where the rehousing is in new houses provided by a housing association, an undertaking shall be given by the local authority that they will take steps to satisfy themselves before each payment of grant by them to the association that the terms of the arrangements made with the association and approved by the Minister, or the conditions imposed by a scheme made under Section 28 of the Act of 1935, have been, and are being, observed by the association.

VI. *Housing Act, 1935.*

Part I.

1. The local authority shall keep a register of new dwellings provided under the Act, with financial assistance from the Exchequer, for the purpose of the abatement of overcrowding or for the rehousing of persons of the working classes displaced from re-development areas. Separate parts of the register shall be used for the recording of particulars relating to houses provided (a) by the authority and (b) by a housing association, and separate divisions shall be reserved in each part of the register for entries in respect of dwellings attracting Exchequer contributions under Sections 31, 32 and 33 of the Act respectively. Particulars will be entered in the register as regards each contract, showing :—

- (a) Site and address or situation of houses ;
- (b) Reference to contract and plans ;
- (c) Amount and period of contribution to be made by the Minister ;
- (d) Reference to the Minister's undertaking to make the contribution referred to at (c) ;
- (e) Date of completion of each house ;
- (f) Reference to certificate of completion by Surveyor or other authorised officer of the Council ;
- (g) If the houses are provided by a housing association, references to the arrangements made by the local authority with the association and to the Minister's approval of such arrangements.

2. The certificate of completion by the Surveyor or other authorised officer of the authority shall be in the following form :—

Housing Act, 1935.

Certificate of completion of dwellings.

This is to certify that each of the dwellings described in the schedule below was completed fit for occupation before the date set opposite to the description of the dwelling in that schedule ;

And that the dwellings have been constructed in a proper and workman-like manner and in compliance with the requirements as to size, materials, type of construction, etc., approved by the Minister of Health ;

And that the dwellings are of entirely new construction and of a type for which a loan period of not less than sixty years is allowed by the Minister of Health or which has been specially approved by the Minister of Health.

SCHEDULE.

<i>Address or description of dwelling.</i>	<i>Date of Completion.</i>	<i>Reference No. for register.</i>
--	--------------------------------	--

Given under my hand this day of 19 .
Signed.....
Surveyor or other authorised officer of the
.....Council.

3. Where new dwellings are provided under the Act by a housing association and Exchequer contributions are payable to the local authority in respect of the dwellings, an undertaking in relation to the dwellings shall be given by the local authority that they will take steps to satisfy themselves before each payment of grant by them to the association that the terms of the arrangements made with the association and approved by the Minister, or the conditions imposed by a scheme under Section 28 of the Act, have been, and are being, observed by the association.

VII. *General.*

1. Every local authority who are required to keep a Housing Revenue Account shall keep a register showing for each year—

(a) in respect of each house (or group of houses) the amount of the rate contribution (if any) payable under Section 41 of the Housing Act, 1935, distinguishing between houses built under different Acts and attracting different rates of contribution,

(b) the amount of the contributions (if any) payable to them by the County Council under Section 34 of the Housing Act, 1930, or under Section 34 (3) of the Housing Act, 1935, distinguishing between houses attracting contributions of different amounts,

(c) in respect of each house which they have reconstructed or improved, the annual sum, if any, payable to them by way of assistance under Section 1 of the Housing (Rural Workers) Act, 1926,

(d) the houses (if any) reserved for letting to members of the agricultural population,

(e) the houses (if any) reserved for such persons as are mentioned in Section 3 (1) (a) of the Housing (Rural Workers) Act, 1926,

and shall forward to the Minister of Health as soon as may be after the close of each financial year—

(i) a statement, in such form as the Minister may require, of the Housing Revenue Account, the Housing Repairs Account and the Housing Equalisation Account, certified by the Chief Financial Officer of the authority and by the auditor of the accounts of the authority; and

(ii) a statement, certified by the Chief Financial Officer of the authority and by the District Auditor, of the authority's contributions for the year payable under Section 41 of the Housing Act, 1935.

2. Every such local authority shall forward to the Minister, at such times and in such form as he may require, a return showing the rents of the houses to which the Housing Revenue Account relates.

3. Every such local authority shall permit the District Auditor, or any other officer of the Ministry of Health, authorised by the Minister, to have access to and inspect the registers, records and certificates required by these conditions to be kept and, where necessary, accounts, plans, contracts, and other relevant documents and vouchers.

4. The houses to which the Housing Revenue Account relates must be open to inspection when required by an officer of the Ministry.

5. The conditions set out in paragraphs 1 to 4 shall, in their application to London, be modified as follows:—

The provisions of paragraph 1 (b) shall not have effect, but the Common Council of the City of London and the Council of each metropolitan borough shall record in addition to the above, the following particulars, viz:—

(a) in respect of each house the amount of any supplementary contributions made to them by the London County Council under Section 1 (6) of the Housing etc. Act, 1923, or under Section 2 (5) of the Housing (Financial Provisions) Act, 1924.

(b) the amount of any contributions made to them by the London County Council or otherwise under Section 80 (3) of the Housing Act, 1925, or under proviso (ii) to Section 16 (5) of the Housing Act, 1930, or under Section 16 (8) of the Housing Act, 1930, or under Section 22 of the Housing Act, 1935.

APPENDIX II.

MODIFICATIONS, APPROVED BY THE TREASURY, IN THE NORMAL METHOD OF DETERMINATION OF THE EXCHEQUER CONTRIBUTIONS PAYABLE IN RESPECT OF REHOUSING SCHEMES UNDER SECTION 1 (3) OF THE HOUSING ACT, 1923.

1. The Housing Act, 1935, provides (Fourth Schedule, Part II, paragraph 9) that for the financial year commencing on the 1st April, 1935, and for each subsequent financial year the amount of the Exchequer contribution towards the expenses incurred by a local authority in carrying out a rehousing scheme to which Section 1 (3) of the Act of 1923 applies is to be an amount equal to one-half of the estimated loss for the year incurred in carrying out the scheme, ascertained as provided by paragraphs 3 to 7 of Part II of the Fourth Schedule (wherein is set out the method by which the estimated annual loss on a scheme to which Section 7 of the Act of 1919 applies is to be determined), subject to such modifications as the Minister, with the

approval of the Treasury, may determine to be necessary having regard to the date of the completion of the operations or expedient in all the circumstances. The modifications, as determined by the Minister with the approval of the Treasury, are as follows :—

I. *A scheme completed between the 1st April, 1930, and the 31st March, 1935.*

In paragraph 5 of Part II of the Fourth Schedule the provisions of heads (a), (b), and (c) of sub-paragraph 1 shall not apply, and the following sub-paragraph shall be substituted for sub-paragraph (2) :—

(2) The estimated expenditure for the financial year shall be the sum of the amounts ascertained under heads (d) and (e) of the foregoing sub-paragraph, increased by such amount, fixed for the remainder of the period during which Exchequer contributions are payable in respect of the scheme, as, after consultation with the local authority, the Minister, with the approval of the Treasury, may regard as reasonable in all the circumstances.

I. *A Scheme completed after the 31st March, 1935.*

(i) For each financial year prior to and including the year in which the scheme is completed the provisions of paragraphs 3 to 7 of Part II of the Fourth Schedule shall not apply, and the estimated loss for the year incurred in carrying out the scheme shall be such amount as, after consultation with the local authority, the Minister, with the approval of the Treasury, may regard as representing the fair and reasonable deficit of the year on the scheme.

(ii) For the financial year immediately following the year in which the scheme is completed and for each subsequent year the provisions of paragraphs 3 to 7 of Part II of the Fourth Schedule shall be modified as follows :—

(a) In paragraph 4 the words " the thirty-first day of March of the financial year in which the scheme was completed " shall be substituted for the words " the thirty-first day of March, nineteen hundred and thirty-five " ; and

(b) in paragraph 5 the provisions of heads (a), (b) and (c) of sub-paragraph (1) shall not apply, and the following sub-paragraph shall be substituted for sub-paragraph (2) :—

(2) The estimated expenditure for the financial year shall be the sum of the amounts ascertained under heads (d) and (e) of the foregoing sub-paragraph, increased by such amount, fixed for the remainder of the period during which Exchequer contributions are payable in respect of the scheme, as, after consultation with the local authority, the Minister, with the approval of the Treasury, may regard as reasonable in all the circumstances.

2. A rehousing scheme to which Section 1 (3) of the Act of 1923 applies shall be deemed to be completed when all the capital expenditure relating to the scheme has been incurred.

**Form of Memorial to the Attorney-General under s. 66 (1) of
the Housing Act, 1936.**

IN THE MATTER OF THE HOUSING ACT, 1936.

To His Majesty's Attorney-General.

The Humble Memorial of C..... D.....

Sheweth :—

- (1) Your Memorialist is *(here give particulars of Memorialist's occupation, address, etc.)*
- (2) *Here set out facts in paragraphs.*
- (3)

Your Memorialist humbly prays that you will be pleased to grant your authority under section 66, sub-section (1) of the Housing Act, 1936, to enable him to institute proceedings against..... under section.....

BOOK TWO
COMPULSORY PURCHASE

PART I
THE ACQUISITION OF LAND

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THE ACQUISITION OF LAND (AUTHORISATION PROCEDURE) ACT, 1946

[9 & 10 Geo. 6, Ch. 49.]

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An Act to amend the law as to the authorisation of the compulsory purchase of land for purposes for which the purchasing authority has power to purchase land compulsorily under existing enactments; to make temporary provision as to the procedure for the compulsory purchase of land as aforesaid in urgent cases; to provide for notifying purchases of war-damaged land to the War Damage Commission; and for purposes connected with the matters aforesaid.

[18th April 1946.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. Procedure for compulsory purchase of land by local authorities, and by the Minister of Transport for highway purposes.—(1) The authorisation of any compulsory purchase of land (a)—

- (a) by a local authority (b) where, apart from this Act, power to authorise the authority to purchase land compulsorily is conferred by or under any enactment contained in a public general Act and in force immediately before the commencement of this Act, other than any enactment specified in subsection (4) of this section (c);
- (b) by the Minister of Transport under section eleven of the Development and Road Improvement Funds Act, 1909 (d), or that section as applied by section three of the Roads Improvement Act, 1925 (e), or under section thirteen of the Restriction of Ribbon Development Act, 1935 (f), as applied by section four of the Trunk Roads Act, 1936 (g), or by section five of the Trunk Roads Act, 1946 (h),

shall, subject to the provisions of this and the next following section, be conferred by an order (in this Act referred to as a "compulsory purchase order") in accordance with the provisions of the First Schedule (i) to this Act (being provisions which, subject to certain adaptations, modifications and exceptions, correspond with provisions as to the authorisation of the compulsory purchase of land of the Local Government Act, 1933) (j).

(2) The purchase, in a case falling within the last foregoing subsection, of land—

- (a) which is the property of a local government (*b*) or which has been acquired by statutory undertakers for the purposes of their undertaking,
- (b) forming part of a common (*k*), open space (*l*) or fuel or field garden allotment (*m*), or held inalienably (*n*) by the National Trust, or
- (c) being, or being the site of, an ancient monument (*o*) or other object of archaeological interest,

shall be subject to the special provisions of Part III of the said First Schedule (*p*).

(3) In relation to any compulsory purchase to which the provisions of the First Schedule to this Act apply, the Lands Clauses Acts (*q*) and other enactments mentioned in Parts I and II of the Second Schedule to this Act shall be incorporated in accordance with the provisions of the said Parts I and II; and the Acquisition of Land (Assessment of Compensation) Act, 1919 (*r*), shall have effect in relation to any such compulsory purchase subject to the provisions of Part III of that Schedule (*s*).

(4) The enactments excepted from the operation of subsection (1) of this section are any enactment contained in—

- (a) the Light Railways Acts, 1896 and 1912 (*t*);
- (b) Part III of the Housing Act, 1936 (*u*);
- (c) the Town and Country Planning Act, 1944 (*v*).

(5) Nothing in this Act shall prevent the authorisation by special order or Provisional Order of the compulsory purchase of land under the Electricity (Supply) Acts, 1882 to 1936 (*w*).

(6) The Public Works Facilities Act, 1930 (*x*), shall cease to have effect.

NOTES TO SECTION 1.

General Note.—The purpose of this section is to unify the procedure relating to compulsory purchase by a local authority. No additional powers of compulsory purchase are conferred, but one procedure, a compulsory purchase order made in accordance with the provisions of the First Schedule, p. 671, *post*, is applied wherever a local authority possesses a power of compulsory purchase under any public enactment (for definition of a public general enactment see *R. v. London County Council*, [1893] 2 Q. B. 454; 33 Digest 106, 709). Excepted from this procedure are purchases under the Light Railways Acts, 1896 and 1912 (14 Halsbury's Statutes 252, 314), Part III of the Housing Act, 1936 (see pp. 94 *et seq.*, *ante*), and the Town and Country Planning Act, 1944 (37 Halsbury's Statutes 420). Additionally the procedure is applied to purchases by the Minister of Transport under the enactments referred to in sub-s. (1) (a). A special saving is made for special

and provisional order procedure under the Electricity (Supply) Acts, 1882 to 1936, and the lands referred to in sub-s. (2) are made subject to special Parliamentary procedure in varying degrees. The Lands Clauses Acts, p. 793, *post*, ss. 77 to 88 of the Railway Clauses Consolidation Act, 1845 (14 Halsbury's Statutes 30), and the Acquisition of Land (Assessment of Compensation) Act, 1919, p. 721, *post*, are to be incorporated in any orders made under this Act subject to the provisions of the Second Schedule, p. 680, *post*. Finally, the Public Works Facilities Act, 1930 (23 Halsbury's Statutes 769), is repealed. The nature of the changes made by this Act can be appreciated by the amendments and repeals provided for in the Fourth and Sixth Schedules, pp. 685, 697, *post*. For application of the Act to local Acts, see s. 7, p. 667, *post*.

(a) **"Land."**—See s. 8 (1), p. 668, *post*; in that sub-section it is enacted that "land" in relation to compulsory purchase under any enactment, includes anything falling within any definition of the expression in that enactment. In s. 188 (1) of the Housing Act, 1936, p. 311, *ante*, "land" is defined to include any right over land. As to powers to acquire land under that Act see s. 73, p. 194, *ante*. See also s. 12 (2) of the Acquisition of land (Assessment of Compensation) Act, 1919, p. 736, *post*, where "land" is defined to include water and any interests in land or water and any easement or right in, to, or over land or water; and s. 3 of the Lands Clauses Consolidation Act, 1845, p. 793, *post*, whereunder the word "lands" is to extend to messuages, lands, tenements, and hereditaments of any tenure.

(b) **"Local Authority."**—under s. 8 (1), p. 668, *post*, local authority is defined to mean the Council of a county, county borough, metropolitan borough or county district, the Common Council of the City of London, the receiver for the metropolitan police district or any other authority being a local authority within the meaning of the Local Loans Act, 1875 (12 Halsbury's Statutes 242), and includes any drainage board, and any joint board or joint committee if all the constituent authorities are such local authorities as aforesaid, and includes also the Honourable Society of the Inner Temple and the Honourable Society of the Middle Temple.

(c) **Sub-section (4).**—The exceptions are the Light Railways Acts, 1896 and 1912 (14 Halsbury's Statutes 252, 314), Part III of the Housing Act, 1936, p. 94, *ante*, and the Town and Country Planning Act, 1944, 37 Halsbury's Statutes 420; Hill's Town and Country Planning, 3rd Edition, p. 223.

(d) **Section 11 of the Development and Road Improvement Funds Act, 1909.**—See 9 Halsbury's Statutes 207 for text of that Act. See also notes to Part II of the First Schedule, *post*, p. 673.

(e) **Section 3 of the Roads Improvement Act, 1925.**—See 9 Halsbury's Statutes 221.

(f) **Section 13 of the Restriction of Ribbon Development Act, 1935.**—See Hill's Town and Country Planning, 3rd Edition, p. 644. For text of the Act, see also 28 Halsbury's Statutes 79.

(g) **Section 4, Trunk Roads Act, 1936.**—See Hill's Town and Country Planning, 3rd Edition, p. 691. For text of the Act see also 29 Halsbury's Statutes 183.

(h) **Trunk Roads Act, 1946.**—39 Halsbury's Statutes 149.

(i) **First Schedule.**—See p. 671, *post*.

(j) **Local Government Act, 1933.**—26 Halsbury's Statutes 295.

(k) **"Common."**—Includes any land subject to be enclosed under the Inclosure Acts, 1845 to 1882 (2 Halsbury's Statutes 443), and any town or village green. See s. 8 (1), p. 668, *post*.

(l) **"Open space."**—Means any land laid out as a public garden, or used for the purposes of public recreation, or land being a disused burial ground. See s. 8 (1), p. 668, *post*.

(m) "**Fuel or field garden allotment.**"—Means any allotment set out as a fuel allotment or a field garden allotment, under an Inclosure Act. See s. 8 (1), p. 668, *post*.

(n) "**Held inalienably.**"—In relation to land belonging to the National Trust, means that the land is inalienable under s. 21 of the National Trust Act, 1907, or s. 8 of the National Trust Act, 1939. See s. 8 (1), p. 668, *post*.

(o) "**Ancient monument.**"—Has the same meaning as in the Ancient Monuments Acts, 1913 and 1931 (12 Halsbury's Statutes 392, and 24 Halsbury's Statutes 296). See s. 8 (1), p. 668, *post*.

(p) **Part III of the First Schedule.**—See p. 674, *post*. These are the provisions relating to special parliamentary procedure.

(q) **Lands Clauses Acts.**—See p. 793, *post*.

(r) **Acquisition of Land (Assessment of Compensation) Act, 1919.**—See p. 721, *post*.

(s) **Part III of the Second Schedule.**—See p. 683, *post*.

(t) **Light Railways Acts, 1896 and 1912.**—14 Halsbury's Statutes 252, 314.

(u) **Part III of the Housing Act, 1936.**—See p. 94, *ante* (clearance and redevelopment procedure).

(v) **Town and Country Planning Act, 1944.**—37 Halsbury's Statutes 420.

(w) **Electricity (Supply) Acts, 1882 to 1936.**—7 Halsbury's Statutes 686 and 29 Halsbury's Statutes, 133.

(x) **Public Works Facilities Act, 1930.**—23 Halsbury's Statutes 769.

2. Temporary powers for speedy acquisition of land in urgent cases.—(1) Where during the period of five years beginning with the commencement of this Act (a) any authority (hereinafter referred to as a "confirming authority") having power to authorise the compulsory purchase of land by a local authority (b) for any purpose is satisfied (c)—

(a) that it is expedient that the local authority (b) (hereinafter referred to as the "acquiring authority") should purchase any land for the said purpose, and

(b) that it is urgently necessary in the public interest that the acquiring authority should be enabled to obtain possession of the land without delay,

then if apart from this section the acquiring authority (d) could be authorised by the confirming authority (e) under any enactment to purchase the land compulsorily for the said purpose in accordance with the provisions of the foregoing section or of the Town and Country Planning Act, 1944 (f), the acquiring authority may, in lieu of being so authorised in accordance with the said provisions, be so authorised, subject to the provisions of the Third Schedule to this Act (g), by an authorisation in writing given by the confirming authority (e) under this subsection.

(2) Where during the period aforesaid the Minister of Transport (*h*) is satisfied that it is expedient that he should purchase any land under any enactment mentioned in paragraph (b) of subsection (1) of the foregoing section, or the Board of Trade are satisfied that it is expedient that they should purchase any land under the Distribution of Industry Act, 1945 (*i*), and the Minister or Board are satisfied that it is urgently necessary in the public interest that the Minister or Board should be enabled to obtain possession of the land without delay, the Minister or Board may, in lieu of being authorised to purchase the land in accordance with the provisions of the foregoing section or of the said Act of 1945, be so authorised, subject to the provisions of the Third Schedule (*g*) to this Act, by an authorisation in writing given by the Minister or Board under this subsection.

In the following provisions of this section and in the Third Schedule to this Act the expressions "acquiring authority" (*d*) and "confirming authority" (*e*) include the Minister of Transport or Board of Trade acting under this subsection.

(3) At any time not earlier than seven days nor later than three months after the giving of an authorisation under this section the acquiring authority (*d*) may enter on, and take possession of, the land to which the authorisation relates notwithstanding that the purchase of the land has not been completed.

(4) Where the acquiring authority has taken possession of land pursuant to an authorisation under this section, the authority shall have power to purchase the land compulsorily as if authorised so to do under the enactment referred to in subsection (1) or (2) of this section, and in accordance with the provisions of the foregoing section, the Town and Country Planning Act, 1944 (*f*), or the Distribution of Industry Act, 1945 (*i*), as the case may be, and the provisions of Part IV of the Second Schedule to this Act (*j*); and the authority shall as soon as may be after taking possession of the land serve notice under section eighteen (*k*) of the Lands Clauses Consolidation Act, 1845, of its intention to take the land and shall in all respects be liable as if such notice had been given on the date of the authority's entering on the land, except that the power conferred by subsection (2) of section five of the Acquisition of Land (Assessment of Compensation) Act, 1919 (*l*), to withdraw such a notice shall not be exercisable.

(5) A power to enter on and take possession of land con-

ferred by an authorisation given under this section may, save as provided in the Third Schedule to this Act (g), be exercised without notice to or the consent of any person and without compliance with sections eighty-four to ninety of the Lands Clauses Consolidation Act, 1845 (m), but subject to payment of the like compensation, and interest on the compensation agreed or awarded, as the acquiring authority would have been required to pay if the provisions of those sections had been complied with.

(6) Notwithstanding anything in the two last foregoing subsections, where apart from this subsection the compensation for the compulsory purchase of land in respect of which an authorisation has been given under this section would be reduced by virtue of paragraph 9 of the Fifth Schedule to the Town and Country Planning Act, 1944 (n) (which relates to purchases under that Act of houses unfit for human habitation), the reduction shall not be made unless an order under the said paragraph 9 has come into operation before the date on which the acquiring authority took possession of the land.

(7) While the acquiring authority (c) is in possession of land pursuant to an authorisation given under this section, the authority shall be treated, as regards the use of the land and the rights of other persons affected by the use thereof, as if the authority had completed the purchase of the land ; and in particular any provision for the extinction of rights over the land on completion of the purchase thereof shall apply as if the authority had completed the purchase thereof at the time when possession thereof was taken.

(8) In this section references to the use of land include references to the erection of buildings or structures on the land and the carrying out of work thereon.

(9) If at any time before the expiration of the period during which authorisations may be given under this section an address is presented to His Majesty by each House of Parliament praying that the said period shall be extended for a further year from the time at which it would otherwise expire, His Majesty may by Order in Council direct that the said period shall be so extended.

NOTES TO SECTION 2.

General Note.—This section provides a quick procedure whereby the possession of land may be obtained with the minimum delay during a period of five years from the 18th April 1946. This procedure is available to an authority acquiring under any public enactment, save those excepted from the operation of s. 1, *ante*, but including the Town and Country Planning

Act, 1944 (37 Halsbury's Statutes 420), the Minister of Transport for those purposes for which he is entitled to use the procedure of s. 1, *ante*; and the Board of Trade under the Distribution of Industry Act, 1945.

While the general provisions of s. 1 of this Act do not apply to Development Corporations under the New Towns Act, 1946, the speedy procedure of this section is made available to such corporations by the provisions of s. 4 (3) of that Act.

No authorisation will be given, however, unless the confirming authority is satisfied that it is expedient and urgently necessary in the public interest that the acquiring authority should have possession without delay. The Minister has stressed that the criterion of the second condition is not the need to purchase the land, but the urgency for possession without delay.

The procedure of this section is not available in cases where an acquisition under s. 1 might be subject to special parliamentary procedure; and the acquisition of a "dwelling house" as defined in Para. 1 (2) of the Third Schedule, *post*, is excluded. The duration of the powers granted under this section may be extended by Order in Council on an address by each House of Parliament.

(a) **Commencement of this Act.**—18th April, 1946.

(b) **"Local Authority."**—See s. 8 (1), p. 668, *post*; but see also s. 4 (3) of the New Towns Act, 1946, which enacts that this section shall have effect as if the references herein to a local authority included references to a development corporation established under s. 2 of that Act.

(c) **"Is satisfied."**—These words and such similar expressions as "in the opinion of," "if it appears," have been said to confer an "absolute" or "unfettered" discretion with the exercise of which the courts cannot interfere provided that the person exercising the discretion acts in good faith: see *R. v. Comptroller-General of Patents, Ex parte Bayer Products, Ltd.*, [1941] 2 K. B. 306, *per* SCOTT, L.J., at p. 311; [1941] 2 All E. R. 677, at p. 681; *Liversidge v. Anderson*, [1942] A. C. 206, *per* Lord ATKIN, at pp. 232, 233; [1941] 3 All E. R. 338, at pp. 353, 354; 2nd Digest Supp.; *Point of Ayr Collieries, Ltd. v. Lloyd-George*, [1943] 2 All E. R. 546; *Carltona, Ltd. v. Works Commissioners*, [1943] 2 All E. R. 560, *per* Lord GREENE, M.R., at p. 564.

On the other hand there are many cases which indicate that the court would be entitled to intervene where it could be shown that the Minister or other authority had taken into consideration something which he was not entitled in law to consider (*R. v. St. Pancras Vestry* (1890), 24 Q. B. D. 371; 16 Digest 310, 1217; *R. v. Board of Education*, [1910] 2 K. B. 165; *Roberts v. Hopwood*, [1925] A. C. 578, at p. 613; 33 Digest 20, 83) or had failed to consider something to which he was or they were legally bound to have regard (*R. v. Cheshire Justices, Ex parte Heaver* (1912), 108 L. T. 374; 16 Digest 417, 2770; *Mersey Docks and Harbour Board v. Birkenhead Assessment Committee*, [1901] A. C. 175; 38 Digest 526, 735; *Roberts v. Cunningham* (1925), 134 L. T. 421; 33 Digest 40, 220).

(d) **"Acquiring authority."**—See note (b) above; but note that acquiring authority also includes the Minister of Transport and the Board of Trade acting under sub-s. (2).

(e) **"Confirming authority."**—Means any authority having power to authorise the compulsory purchase of land by a local authority.

(f) **Town and Country Planning Act, 1944.**—See Hill's Town and Country Planning, 3rd Edition, p. 223; 37 Halsbury's Statutes 420.

(g) **Third Schedule.**—See p. 683, *post*.

(h) **Ministry of Transport.**—See notes to Part II of the First Schedule on purchases by the Minister.

(i) **Distribution of Industry Act, 1945.**—38 Halsbury's Statutes 479.

(j) **Second Schedule.**—See p. 680, *post*; this schedule provides for the incorporation of other enactments.

(k) **Section 18, Lands Clauses Consolidation Act, 1845.**—See p. 797, *post*.

(l) **Section 5 (2) of the Acquisition of Land (Assessment of Compensation) Act, 1919.**—See p. 730, *post*.

(m) **Sections 84 to 90 of the Lands Clauses Consolidation Act, 1845.** See pp. 811 *et seq.*, *post*. These sections relate to entry under that Act.

(n) **Paragraph 9 of the Fifth Schedule to the Town and Country Planning Act, 1944.**—This paragraph enacts as follows :—

9.—(1) As respects any house in the area of a local authority for the purposes of the provisions of Part III of the Housing Act, 1936, relating to clearance areas which in their opinion is unfit for human habitation and not capable at reasonable expense of being rendered so fit, and which is comprised—

- (a) in land designated by an order made under section one of this Act, or
- (b) in land for the compulsory purchase of which a local planning or highway authority have resolved to seek authorisation under any enactment in Part I of this Act, or as respects which a Minister proposes to make an order under section three, four or nine thereof,

the local authority for the purposes of the said provisions of the said Part III may make and submit to the Minister of Health an order in such form as may be prescribed by regulations made by the said Minister under section one hundred and seventy-six of the Housing Act, 1936, declaring the house to be in that state, and, if the order is confirmed by him, the compensation to be paid for the house on a compulsory purchase thereof pursuant to any authorisation given by an order under any enactment in Part I of this Act confirmed or made by the Minister having jurisdiction to give such authorisation, either before or within two years after the confirmation by the Minister of Health of the order submitted under this paragraph, shall be assessed in like manner as if it had been land purchased compulsorily under the said Part III as being comprised in a clearance area, and the Acquisition of Land (Assessment of Compensation) Act, 1919, shall accordingly have effect, in its application for the purposes of Part I of this Act, subject to this provision.

(2) Before submitting an order under this paragraph to the Minister of Health, the local authority shall serve on every owner, and, so far as it is reasonably practicable to ascertain such persons, on every mortgagee, of the house or of any part thereof, a notice in such form as may be prescribed as mentioned in the preceding sub-paragraph, stating the effect of the order and that it is about to be submitted to the said Minister for confirmation, and specifying the time within which, and the manner in which, objection thereto can be made.

(3) If no objection is duly made by any of the persons on whom notices are required to be served, or if all objections so made are withdrawn, the said Minister may, if he thinks fit, confirm the order, but in any other case he shall before confirming the order consider any objection not withdrawn and shall, if either the person by whom the objection was made or the local authority so desire, afford that person and the authority an opportunity of appearing before and being heard by a person appointed by the said Minister for the purpose, and may then, if he thinks fit, confirm the order.

(4) Where the provisions of sub-paragraph (1) of this paragraph have effect as to the compensation to be paid for a house on a compulsory purchase thereof under any enactment in Part I of this Act, the provisions of section forty-two of the Housing Act, 1936 (which relate to

payments in respect of well-maintained houses) shall have effect, as they have effect where a house is made the subject of a compulsory purchase order under the said Part III as being unfit for human habitation, if the Minister of Health is satisfied as mentioned in that section on a representation made to him by a person who would be entitled to any payment under that section or to a share thereof within three months from his first becoming aware that a notice to treat for the purchase of any interest in the house has been served :

Provided that, in the application of that section for the purposes of this sub-paragraph, there shall be submitted, for references therein to the local authority therein mentioned and to the order therein mentioned, references respectively to the purchasing authority and to the order by which the purchase of the house is authorised.

(5) In this paragraph the expression " house " has the same meaning as in the Housing Act, 1936, and in determining for the purposes of this paragraph whether a house is fit for human habitation regard shall be had to the matters to which regard is required by that Act to be had in determining that question for the purposes of that Act, and sections one hundred and fifty-seven and one hundred and fifty-eight of that Act (which relate to the surveying and examination of land) shall have effect as if the powers conferred by this paragraph were powers under that Act.

3. Power to extinguish certain public rights of way over land acquired.—(1) Subject to the provisions of this section, where land is acquired, or proposed to be acquired,—

- (a) in pursuance of a compulsory purchase order made under section one of this Act or an authorisation given under section two thereof, or
- (b) by agreement for a purpose, and by an authority, such that the compulsory acquisition of the land could be authorised by such an order or authorisation as aforesaid,

and there subsists over any part of the land a public right of way, not being a right enjoyable by vehicular traffic, then if the Minister of Town and Country Planning (hereafter in this section referred to as " the Minister ") is satisfied that a suitable alternative right of way has been or will be provided, or that the provision thereof is not required, he may by order extinguish the right of way as from such time as may be specified in the order, not being earlier than—

- (i) the making of the order,
- (ii) if in the exercise of any power conferred by this Act or by agreement the acquiring authority takes possession of the land before the acquisition thereof is completed, the date on which the authority takes possession of the land,
- (iii) if the acquiring authority does not take possession of the land in the exercise of any such power as aforesaid, the date on which the acquisition of the land is completed.

Provided that where a right of way is extinguished under this subsection at a date before the acquisition of the land in question is completed, then if at any time thereafter it appears to the Minister that the proposal to acquire the land has been abandoned, he shall by order direct that the right shall revive, without prejudice, however, to the making of a new order extinguishing the right.

(2) The Minister shall cause a notice stating the effect of any order that he proposes to make under this section extinguishing a right of way, and specifying the time (not being less than twenty-one days from the publication of the notice) within which, and the manner in which, objections to the proposal may be made, to be published in such manner as appears to him to be requisite, and in any case where the acquiring authority is not the local planning authority (that is to say, the council specified in subsection (1) of section two of the Town and Country Planning Act, 1932) (a) for the area in which the land is situated shall serve a like notice on the said local planning authority.

(3) If any objection to the proposal is duly made and is not withdrawn, the Minister shall, before making the order, cause a public local inquiry (b) to be held.

(4) No order shall be made under subsection (1) of this section extinguishing a right of way over land on, over or under which there is any apparatus belonging to statutory undertakers (c) unless the undertakers consent to the making of the order, and any such consent may be given subject to the condition that there are included in the order such provisions for the protection of the undertakers as they may reasonably require.

The consent of statutory undertakers to any such order shall not be unreasonably refused, and any question arising under this subsection whether any requirement or refusal is reasonable shall be determined by the appropriate Minister (d).

(5) The foregoing provisions of this section shall not apply in any case where section twenty-three of the Town and Country Planning Act, 1944 (e) (which relates to the extinction of public rights of way over land acquired or appropriated for the purposes of Part I of that Act) applies.

(6) Except as provided by the foregoing provisions of this section or by the said section twenty-three, nothing in this Act shall be taken to authorise the extinction of any public right of way.

NOTES TO SECTION 3

General Note.—The powers conferred by this section are similar to those contained in s. 46 of the Housing Act, 1936, p. 147, *ante*, and s. 23 of the Town and Country Planning Act 1944 (see Hill's Town and Country Planning, 3rd Edition, p. 288). The powers under this section, however, are of general application to all compulsory acquisitions made under this Act or, where such powers could be used, in the case of purchase by agreement. They are limited to non-vehicular ways.

The powers are exercised by the Minister of Town and Country Planning who must advertise his intention to make the order, and, where the acquiring authority are not the planning authority for the area, he must serve notice on the planning authority. Objections must be lodged within twenty-one days, unless the Minister grants a longer period. If objections are duly made and not withdrawn, the Minister must hold a public local inquiry before making the order.

(a) **Section 2 (1) of the Town and Country Planning Act, 1932.**—The councils specified in that subsection are, as to the City of London, the Common Council, as to the County of London, the London County Council, and elsewhere the councils of county boroughs and county districts.

(b) **Public Local Inquiry.**—See s. 5, p. 666, *post*. See also s. 178 of the Housing Act, 1936, and notes thereto, p. 304, *ante*.

(c) **Statutory undertakers.**—See definition contained in s. 8 (1), p. 668, *post*.

(d) **“Appropriate Minister.”**—Means, in relation to—

- (a) any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, the Minister of Transport,
- (b) in relation to any undertaking for the supply of electricity, gas or hydraulic power, the Minister of Fuel and Power.
- (c) in relation to any undertaking for the supply of water, the Minister of Health. See s. 8 (1), *post*.

(e) **Section 23 of the Town and Country Planning Act, 1944.**—See Hill's Town and Country Planning, 3rd edition, p. 288.

4. Notification of purchases of war-damaged land to War Damage Commission.—(1) On the date on which any such action as the following is taken, that is to say—

- (a) notice to treat is served (a) for the compulsory purchase under any enactment of an interest in any land that has sustained war damage any of which has not been made good at that date,
- (b) any other action (b) is taken by virtue of which compulsory purchase under any enactment of an interest in such land becomes obligatory, or
- (c) there is withdrawn a notice to treat for the compulsory purchase under any enactment of an interest in any land that has sustained war damage any of which had not been made good at the time when the notice to treat was served (c),

or as soon as may be after that date, the person or body of

persons by whom the action is taken shall notify the War Damage Commission that the action has been taken :

Provided that this subsection shall not apply to a notice to treat deemed to have been served by virtue of the Sixth Schedule to the Town and Country Planning Act, 1944 (*d*).

(2) If any person or body of persons, being authorised under any enactment to purchase compulsorily land which has sustained war damage, enter into an agreement (*e*) for the purchase of an interest in the land and at the date when the agreement is made any of the damage has not been made good, the person or body of persons shall, on or as soon as may be after that date, notify the War Damage Commission that they have entered into the agreement.

(3) Any notification under this section may be given to the War Damage Commission by delivering it to an officer of the Commission at any office of the Commission, or by sending it in a pre-paid registered letter addressed to the Commission at any office of the Commission.

(4) In this section the expression "war damage" has the same meaning as in the War Damage Act, 1943 (*f*), and the expression "enactment" includes an enactment passed after the commencement of this Act.

(5) Subsection (1) of section fifty-three of the Town and Country Planning Act, 1944, except the proviso thereto, and subsection (2) of that section shall cease to have effect (*g*).

NOTES TO SECTION 4

General Note.—This provides for notification to the War Damage Commission where, in respect of any interest in land, which has suffered war damage which has not been made good, a notice to treat is served, any action is taken whereby compulsory purchase becomes obligatory, a notice to treat is withdrawn under s. 5 (2) of the Acquisition of Land (Assessment of Compensation) Act, 1919, or an agreement is made for the purchase of any land which could have been purchased compulsorily. The reason for this provision is that under s. 14 (1) of the War Damage Act, 1943, 36 Halsbury's Statutes 353, the effect of any compulsory purchase, or any agreement to purchase land which could have been acquired compulsorily, is to substitute a value payment for a cost of works payment in respect of such land. See also notes to s. 61 of the Town and Country Planning Act, 1944, p. 747, *post*.

(a) "**Notice to treat is served.**"—As to service of notice to treat see para. 19 of the First Schedule, p. 679, *post*. See also Second Schedule, *post*, and preliminary note on the Acquisition of Land (Assessment of Compensation) Act, 1919, p. 721, *post*.

(b) "**Any other action.**"—Other actions by which compulsory purchase becomes obligatory are entry under an authorisation under s. 2 (see s. 2 (4), p. 658, *ante*, which excludes the right to withdraw a notice to treat); and a notice to treat which is deemed to have been served by virtue of s. 11 of the Town and Country Planning Act, 1944 (see Hill's Town and Country Planning, 3rd edition, p. 257).

(c) **Sub-section (1) (c).**—For conditions under which notice to treat may be withdrawn see s. 5 (2) of the Acquisition of Land (Assessment of Compensation) Act, 1919, p. 730, *post*.

(d) **Sixth Schedule to the Town and Country Planning Act, 1944.**—That Schedule deals with the procedure for expedited completion under 1944 Act. (See Hill's Town and Country Planning, p. 368.) Such purchases will be notified to the War Damage Commission under the proviso to s. 53 (1) of the 1944 Act which remains unrepealed, see note to sub-s. (5) below.

(e) **"Agreement."**—The provisions of s. 14 of the War Damage Act, 1943, apply equally where land is purchased by agreement if it could have been acquired compulsorily.

(f) **War Damage Act, 1943.**—36 Halsbury's Statutes 334. For definition of "war damage" see s. 2 of that Act.

(g) **Sub-section (5).**—S. 53 of the Town and Country Planning Act, 1944, now reads :

"when the purchasing authority under a purchase order providing for expedited completion notify the fact that the order has become operative to the proper officer of a council mentioned in section seventeen of this Act for the purpose of the registration of the order in the register of local land charges, or, if the purchasing authority are such a council, when the order is so registered by their proper officer, they shall notify the Commission of that action having been taken."

See also proviso to sub-s. (1) above.

5. Provisions as to inquiries.—(1) For the purposes of the execution of his powers and duties under this Act, a Minister may cause to be held such public local inquiries as are directed by this Act and such other public local inquiries as he may think fit.

(2) Subsections (2) and (3) of section two hundred and ninety (a) of the Local Government Act, 1933 (which relate to the giving of evidence on inquiries) and in relation to a proposed acquisition of land by a local authority, or to the proposed extinction of a right of way over land acquired or proposed to be acquired by a local authority, subsections (4) and (5) of that section (which relate to the defraying of costs of inquiries) shall apply to a public local inquiry held in pursuance of this Act as they apply to the inquiries mentioned in subsection (1) of the said section two hundred and ninety, but with the substitution for references to a department of references to a Minister.

NOTES TO SECTION 5

General Note.—As to public local inquiries, see s. 178 of the Housing Act, 1936, p. 304, *ante*; and as to inquiries generally see also Introduction, at p. 29, *ante*.

(a) **Section 290 of the Local Government Act, 1933.**—For text of that section see notes to s. 178 of the Housing Act, 1936, p. 304, *ante*.

6. Minor and consequential amendments.—(1) The enactments specified in the Fourth Schedule to this Act shall have effect subject to the amendments specified in the second column of that Schedule, being minor amendments or amendments consequential on the passing of this Act.

(2) Any reference in subsection (1) of section one of this Act or in paragraph 1 of the First Schedule thereto to an enactment contained in an Act specified in the said Fourth Schedule shall be construed as if the said amendments had been in force immediately before the commencement of this Act (a).

(3) For the removal of doubt it is hereby declared that any power conferred by or under this Act or any enactment passed before the commencement thereof to purchase land compulsorily is, except in so far as any express provision of any such enactment restricts the exercise of the power, exercisable notwithstanding any other enactment providing that the land shall be inalienable.

NOTE TO SECTION 6

(a) **Commencement of this Act.**—18th April, 1946.

7. Application of s. 1 to local Acts.—(1) Where, apart from this Act, power to authorise a local authority to purchase land compulsorily is conferred by any enactment contained in a local Act and in force immediately before the commencement of this Act (a), the Minister of Health may by order made on the application of the local authority (b) direct that section one of this Act shall apply in relation to the enactment as if the enactment were contained in a public general Act :

Provided that nothing in an order under this section shall empower the authorisation of a compulsory purchase in accordance with the provisions of section two of this Act.

(2) Where an order has come into operation under this section the last foregoing section shall apply as if the local Act to which the order relates were specified in the Fourth Schedule to this Act, and as if there were specified in the second column of that Schedule such amendments of the local Act as may be provided for in the order, being amendments appearing to the Minister to be consequential on the making of the order.

(3) Any order under this section made after the expiration of two years from the commencement of this Act shall be subject to special parliamentary procedure (c).

NOTES TO SECTION 7

General Note.—This section provides for the application of the procedure of s. 1 of this Act to local Acts in force at the commencement of this Act. The application is not automatic and requires that an order should be made by the Minister of Health on the application of the local authority. The need for this provision arises through the repeal of such statutes as the Public Works Facilities Act, 1930, which have been adopted by local Acts to provide a procedure for compulsory purchase. Any order under this section after the 18th April, 1948, will be subject to special parliamentary procedure.

(a) “**Commencement of this Act.**”—18th April, 1946.

(b) **Local authority.**—See definition contained in s. 8 (1), *post*.

(c) **Special parliamentary procedure.**—Means in accordance with the procedure provided for in Statutory Orders (Special Procedure) Act, 1945. See note (e) to Part III of the First Schedule, p. 676, *post*.

8. Interpretation.—(1) In this Act, except where the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say :—

“appropriate Minister” means, in relation to—

(a) any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, the Minister of Transport,

(b) in relation to any undertaking for the supply of electricity, gas or hydraulic power, the Minister of Fuel and Power,

(c) in relation to any undertaking for the supply of water, the Minister of Health ;

“ancient monument” has the same meaning as in the Ancient Monuments Acts, 1913 and 1931 (a) ;

“common” includes any land subject to be enclosed under the Inclosure Acts, 1845 to 1882 (b), and any town or village green ;

“fuel or field garden allotment” means any allotment set out as a fuel allotment, or a field garden allotment, under an Inclosure Act (b) ;

“held inalienably,” in relation to land belonging to the National Trust, means that the land is inalienable under section twenty-one of the National Trust Act, 1907 (c), or section eight of the National Trust Act, 1939 (c) ;

“land,” in relation to compulsory purchase under any enactment, includes anything falling within any definition of the expression in that enactment (e) ;

“ local authority ” means the council of a county, county borough, metropolitan borough or county district, the common council of the City of London, the receiver for the metropolitan police district or any other authority being a local authority within the meaning of the Local Loans Act, 1875 (*f*), and includes any drainage board and any joint board or joint committee if all the constituent authorities are such local authorities as aforesaid, and includes also the Honourable Society of the Inner Temple and the Honourable Society of the Middle Temple ;

“ National Trust ” means the National Trust for Places of Historic Interest or Natural Beauty incorporated by the said Act of 1907 (*c*) ;

“ open space ” means any land laid out as a public garden, or used for the purposes of public recreation, or land being a disused burial ground (*g*) ;

“ owner,” in relation to any land, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion, and includes also a person holding or entitled to the rents and profits of the land under a lease or agreement, the unexpired term whereof exceeds three years (*h*) ;

“ statutory undertakers ” (*i*) means any persons authorised by any Act (whether public general or local), or by any order or scheme made under or confirmed by an Act, to construct, work or carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of electricity, gas, hydraulic power or water.

(2) If any question arises under this Act which Minister is the appropriate Minister the question shall be determined by the Treasury.

(3) References in this Act to any enactment shall be construed as references to that enactment as amended by or under any other enactment (including this Act).

NOTES TO SECTION 8

(a) **Ancient Monuments Acts, 1913 and 1931.**—See 12 Halsbury's Statutes 392 and 24 Halsbury's Statutes 303.

(b) **The Inclosure Acts, 1845 to 1882.**—See 2 Halsbury's Statutes 443. This definition is the same as that contained in s. 143 (3) of the Housing Act, 1936, p. 275, *ante*.

(c) **National Trust Acts, 1907 and 1939.**—These statutes are not published as public general Acts. They are to be found among the Local Acts for 1907 and 1939.

(e) **"Land."**—Is defined in s. 188 (1) of the Housing Act, 1936, to include any right over land, p. 311, *ante*.

(f) **Local Loans Act, 1875.**—See 12 Halsbury's Statutes 242. The definition of "Local Authority" is contained in s. 34 at p. 253 and means the justices of any county, liberty, riding, part, or division of a county in general or quarter sessions assembled, the council of any municipal borough, also any authority whatsoever having power to levy a rate, as defined in that Act, and also any authority prescribed by any enactment authorising a local authority to borrow money. A rate is defined to mean a rate the proceeds of which are applicable to public local purposes and leviable on the basis of an assessment in respect of property, and includes any sum which, though obtained in the first instance by a precept, certificate, or other document requiring payment from some authority or officer, is or can be ultimately raised out of a rate, and the levy of a rate includes the issue and enforcement of any such precept, certificate or document as aforesaid, and expressions relating to the levy and the assessment and making of a rate shall be construed accordingly.

(g) **"Open space."**—This definition is similar to that contained in s. 143 (3) of the Housing Act, 1936, p. 275, *ante*.

(h) **"Owner."**—This definition is similar as to that contained in s. 188 (1) of the Housing Act, 1936, p. 311, *ante*.

(i) **"Statutory undertakers."**—Under s. 188 (1) of the Housing Act, 1936, "statutory undertakers," are defined to mean any persons authorised by any enactment or by any order, rule or regulation made under any enactment, to construct, work or carry on a railway, canal, inland navigation, dock, harbour, tramway, gas, electricity, water or other public undertaking. See p. 311, *ante*.

[S. 9. *Application to Scotland.*]

10. Short title, repeals and saving.—(1) This Act may be cited as the Acquisition of Land (Authorisation Procedure) Act, 1946.

(2) This Act shall not extend to Northern Ireland.

(3) The enactments specified in the Sixth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(4) Where before the commencement of this Act proceedings for obtaining authorisation of a compulsory purchase in accordance with the provisions of any enactment referred to in section one of this Act have been begun but not completed, the proceedings may be completed as if this Act had not been passed.

SCHEDULES.

FIRST SCHEDULE.

(Section 1.)

PROCEDURE FOR AUTHORISING COMPULSORY PURCHASES.

PART I.

Purchases by local authorities.

1. A compulsory purchase order authorising a compulsory purchase by a local authority (a) (hereafter in this Schedule referred to as the "acquiring authority" (b) (in a case falling within subsection (1) of section one of this Act shall be made by the local authority and submitted to and confirmed by the authority having power under the enactment in question to authorise the purchase (hereafter in this Schedule referred to as the "confirming authority") in accordance with the following provisions of this Schedule.

2. The compulsory purchase order shall be in the prescribed form (c) and shall describe by reference to a map the land to which it applies.

3.—(1) Before submitting the order to the confirming authority (d) the acquiring authority (b) shall—

- (a) in two successive weeks publish in one or more local newspapers circulating in the locality in which the land comprised in the order is situated a notice (e) in the prescribed form stating that the order has been made and is about to be submitted for confirmation and the purpose for which the land is required, describing the land, naming a place within the locality where a copy of the order and the map referred to therein may be inspected, and specifying the time (not being less than twenty-one days from the first publication of the notice) within which and the manner in which objections (f) to the order can be made ;
- (b) except in so far as the confirming authority directs that this provision shall not have effect in any particular case, serve (g) on every owner, lessee and occupier (except tenants for a month or any period less than a month) of any land comprised in the order a notice in the prescribed form stating the effect of the order and that it is about to be submitted for confirmation, and specifying the time (not being less than twenty-one days from the service of the notice) within which and the manner in which objections thereto can be made ;
- (c) in the case of any land with respect to which a direction is given under head (b) of this sub-paragraph, affix to some conspicuous object or objects on the land a notice or notices in the prescribed form addressed to " the owners and any occupiers " of the land (describing it) containing the particulars specified in the said head (b) :

Provided that no direction under head (b) of this sub-paragraph shall have effect in relation to an owner, lessee or occupier being a local authority or statutory undertakers or the National Trust.

(2) Where under this paragraph any notice is required to be served on an owner of land, and the land is ecclesiastical property, a like notice shall be served on the Ecclesiastical Commissioners.

(3) In this paragraph the expression "ecclesiastical property" means land belonging to any ecclesiastical benefice, or being or forming part of a church subject to the jurisdiction of the bishop of any diocese or the site of such a church, or being or forming part of a burial ground subject to such jurisdiction.

4.—(1) If no objection is duly made by any such owner, lessee or occupier as aforesaid or if all objections so made are withdrawn, the confirming authority, upon being satisfied that the proper notices have been published and served, may, if the authority thinks fit, confirm the order with or without modifications.

(2) If any objection duly made as aforesaid is not withdrawn, the confirming authority shall, before confirming the order, either cause a public local inquiry (*h*) to be held or afford to any person by whom any objection has been duly made as aforesaid and not withdrawn an opportunity of appearing before and being heard by a person appointed by the confirming authority for the purpose, and, after considering the objection and the report (*i*) of the person who held the inquiry or the person appointed as aforesaid, may confirm the order either with or without modifications.

(3) If any person by whom an objection has been made avails himself of the opportunity of being heard, the confirming authority shall afford to the acquiring authority, and to any other persons to whom it appears to the confirming authority expedient to afford it, an opportunity of being heard on the same occasion.

(4) Notwithstanding anything in the two last foregoing sub-paragraphs the confirming authority may require any person who has made an objection to state in writing the grounds (*j*) thereof, and may disregard the objection for the purposes of this paragraph if the confirming authority is satisfied that the objection relates exclusively to matters which can be dealt with by the tribunal by whom the compensation is to be assessed.

5. The order as confirmed by the confirming authority shall not, unless all persons interested consent, authorise the acquiring authority to purchase compulsorily any land which the order would not have authorised that authority so to purchase if it had been confirmed without modification.

6. As soon as may be after the order has been confirmed (*k*) the acquiring authority shall publish in one or more local newspapers circulating in the locality in which the land comprised in the order is situated a notice in the prescribed form describing the land, stating that the order has been confirmed and naming a place where a copy of the order as confirmed and of the map referred to therein may be inspected at all reasonable hours, and shall serve a like notice and a copy of the order as confirmed on any persons on whom notices with respect to the land comprised in the order were required to be served under paragraph 3 of this Schedule.

NOTES TO FIRST SCHEDULE, PART 1

General Note.—The procedure prescribed in this Schedule is similar to that contained in ss. 161 and 162 of the Local Government Act, 1933, and the First and Second Schedules to the Housing Act, 1936, pp. 321 *et seq.*, *ante*. Provisions of this schedule which require special notice are the power of the confirming authority to direct that service of notices on owners

and occupiers may be effected by affixing the notice upon the land or by delivering it to some person on the premises (para. 19 (4)) ; this power removes any difficulty in determining what is a "reasonable inquiry" under s. 167 (e) of the Housing Act, 1936, p. 293, *ante*. At least twenty-one days must be given for the lodging of objections. An oral hearing may be substituted for a public local inquiry.

(a) "**Local authority.**"—See definition in s. 8 (1), p. 668, *ante*.

(b) "**Acquiring authority.**"—In addition to local authorities, this includes the Minister of Transport and the Board of Trade acting under s. 2 (2), p. 658, *ante* ; for orders so made, see Part II of this Schedule, *post*.

(c) "**Prescribed form.**"—See Form No. 1 prescribed by S. R. & O., 1946, No. 573, p. 701, *post*.

(d) "**Confirming authority.**"—The authority having power to authorise the purchase.

(e) "**Notice.**"—The form of advertisement to be published is prescribed by S. R. & O., 1946, No. 573. See Form No. 2, p. 702, *post*.

(f) "**Objection.**"—Objections to the order must be lodged within twenty-one days, unless a longer period is given in the notice. The grounds of objection should be set out since the Minister has power to require them and may, if they relate exclusively to matters of compensation, disregard the objection. It is imperative that the objection should be on other grounds if the objector wishes to have an opportunity of putting his case orally before the Minister and of answering the case of the acquiring authority. If a proper objection is made the confirming authority grant a hearing or a public local inquiry.

(g) "**Serve.**"—The form of notice which must be served is prescribed by S. R. & O., 1946, No. 573. See Form No. 3, p. 702, *post*. As to manner of serving, see para. 19 of Part V of this Schedule. The confirming authority may give a direction permitting service to be effected by posting the notice on the land or by delivering it to some person on the premises.

(h) **Public Local Inquiry.**—See notes to s. 178 of the Housing Act, 1936, p. 304, *ante*. There is now no need for a public local inquiry and a hearing may be substituted ; the procedure, however, is likely to remain the same although it need not be held locally and there is no need for it to be public. The rules of "natural justice" laid down in the case of *Board of Education v. Rice*, [1911] A. C. 179 ; and in the case of *Local Government Board v. Arlidge*, [1915] A. C. 120 ; 38 Digest 97, 708, apply equally to hearings and public local inquiries. See also *Re Mowsley No. 1 Compulsory Purchase Order*, 1944 (1946), 175 L. T. 101.

(i) "**Report.**"—A person affected by an order of the Minister made after a public local inquiry is not entitled to see the report of the person who held the inquiry. See *William Denby & Sons, Ltd. v. Minister of Health*, [1936] 1 K. B. 337 ; Digest Supp.

(j) "**Grounds.**"—See note (f), *supra*.

(k) "**Confirmed.**"—For form of advertisement of confirmation see S. R. & O., 1946, No. 573, Form No. 5, p. 704, *post*.

PART II.

Purchases by Ministers.

7.—(1) A compulsory purchase order authorising a compulsory purchase by a Minister (a) in a case falling within subsection (1) of section one of this Act shall be prepared in draft and made by the Minister in accordance with the following provisions of this Schedule.

(2) The order shall describe by reference to a map the land to which it applies.

(3) Subject as aforesaid, the form of the order shall be such as the Minister may determine.

(4) Paragraphs 3 to 6 of this Schedule shall have effect in relation to the order with the substitution, for references to the confirming authority and to the acquiring authority, of references to the Minister, and, for references to an order submitted and to the confirmation of an order of references to an order as prepared in draft and to the making of an order, and with the omission in sub-paragraph (3) of paragraph 4 of the reference to the acquiring authority, so however that the publication and service or affixing of notices required by paragraph 3 shall be effected as soon as may be after the draft of the order has been prepared, and the provisions of that paragraph as to the notice thereby required shall apply subject to such modifications of the form of the notice as appear to the Minister to be requisite.

NOTE TO FIRST SCHEDULE, PART II

(a) "**Compulsory purchase by a Minister.**"—The Minister is in a peculiar position. He is the person who makes the draft order and he is also the person who, by one of his inspectors, holds the inquiry or hearing. While it is the duty of the Minister to give the fullest information as to his proposals, to explain the purpose he has in view, and also the statutory or other authority under which the proposals are made it is for the objector to state his case and call such evidence as is relevant. It is not essential that evidence should be called on behalf of the Minister. See *Re London-Portsmouth Trunk Road (Surrey) Compulsory Purchase Order (No. 2)*, 1938, [1939] 2 K. B. 515; [1939] 2 All E. R. 464; Digest Supp. This case was concerned with a provision similar to this Part of this Schedule contained in para. 6 (b) of the Fourth Schedule to the Trunk Roads Act, 1936 (29 Halsbury's Statutes 183), which is repealed by the Fourth Schedule to this Act and is now replaced by this paragraph.

PART III.

Special provisions (a) as to certain descriptions of land.

8. The following provisions of this Part of this Schedule shall have effect in the case of land of the descriptions specified in subsection (2) of section one of this Act.

9. A compulsory purchase order shall, in so far as it authorises the compulsory purchase of land which is the property of a local authority (b), or has been acquired by statutory undertakers (c), not being a local authority, for the purposes of their undertaking, or of land belonging to the National Trust (d) which is held by the Trust inalienably, be subject to special parliamentary procedure (e) in any case where an objection to the order has been duly made by the local authority or statutory undertakers or the National Trust, as the case may be, and has not been withdrawn.

10. Where a compulsory purchase order has been submitted or prepared and the land comprised in the order includes land which has been acquired by statutory undertakers for the purposes of their undertaking, then if on representation made to the appropriate Minister (f) before the expiration of the time within which objections to the order can be made the appropriate Minister (f) is satisfied—

- (a) that any of the said land is used for the purposes of the carrying on of their undertaking, or
- (b) that an interest in any of the said land is held for those purposes,

the compulsory purchase order shall not be confirmed or made so as to authorise the compulsory purchase of any land as to which the appropriate Minister is satisfied as aforesaid except land as to which he is satisfied that its nature and situation are such—

- (i) that it can be purchased and not replaced without serious detriment to the carrying on of the undertaking, or
- (ii) that if purchased it can be replaced by other land belonging to, or available for acquisition by, the undertakers without serious detriment to the carrying on thereof,

and certifies (g) accordingly.

11.—(1) In so far as a compulsory purchase order authorises the purchase of any land forming part of a common, open space or fuel or field garden allotment, the order shall be subject to special parliamentary procedure unless the Minister of Agriculture and Fisheries (in the case of a common or of a fuel or field garden allotment) or the Minister of Town and Country Planning (in the case of an open space not being a common or such an allotment) is satisfied—

- (a) that there has been or will be given in exchange for such land other land, not being less in area and being equally advantageous to the persons, if any, entitled to rights of common or other rights, and to the public, and that the land given in exchange has been or will be vested in the persons in whom the land purchased was vested, and subject to the like rights, trusts and incidents as attach to the land purchased, or
- (b) that the land is required for the widening of an existing highway and that the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public,

and certifies (g) accordingly.

(2) Where it is proposed to give a certificate under this paragraph, the Minister having jurisdiction to give the certificate (g) shall give public notice of his intention so to do, and—

- (a) after affording opportunity to all persons interested to make representations and objections in relation thereto, and
- (b) after causing a public local inquiry (h) to be held in any case where it appears to him to be expedient so to do, having regard to any representations or objections made,

the said Minister may, after considering any representations and objections made and, if an inquiry has been held, the report of the person who held the inquiry, give the certificate (g).

(3) A compulsory purchase order may provide for vesting land given in exchange as mentioned in sub-paragraph (1) of this paragraph in the persons, and subject to the rights, trusts and incidents, therein mentioned, and for discharging the land purchased from all rights, trusts and incidents to which it was previously subject.

12. A compulsory purchase order, in so far as it authorises the purchase of land being, or being the site of, an ancient monument or other object of archaeological interest, shall be subject to special parliamentary procedure (e) unless the Minister of Works certifies (g) that the acquiring authority has entered into an undertaking with the Minister to observe such conditions as to the use of the land as in his opinion are requisite having regard to the nature thereof.

13. As soon as may be after the giving of a certificate (g) under this Part of this Schedule, the local authority or Minister by whom the compulsory purchase order was submitted or prepared shall publish in one or more local newspapers circulating in the locality in which the land comprised in the order is situated a notice in the prescribed form stating that the certificate has been given.

14. In the case of land falling within two or more of the preceding paragraphs of this Part of this Schedule a compulsory purchase order shall be subject to special parliamentary procedure (e) if required to be subject thereto by any of the said paragraphs.

NOTES TO FIRST SCHEDULE, PART III

(a) **Special provisions.**—The special provisions are that compulsory acquisitions of certain descriptions of land are subject additionally in varying degrees to special parliamentary procedure (see note (e) below). The lands which are subject to this procedure comprise lands held by local authorities, statutory undertakers and the National Trust; common lands, open spaces and allotments; and lands which are the site of ancient monuments or objects of archaeological interest. The provisions relating to these lands replace the protection given to such lands by ss. 75, 142 (2) and 143 of the Housing Act, 1936 (see pp. 196, 275, *ante*). In the case of lands which are held by statutory undertakers (whether local authorities or not) for the purposes of their undertaking, the order cannot be confirmed unless the Minister, whose jurisdiction is appropriate to the undertaking, certifies that there will be no serious detriment to the undertaking. If the objection is maintained even after the certificate is given the order will after confirmation be subject to special parliamentary procedure. In the case of other lands which are held by local authorities or which are held by the National Trust, if the authority or the Trust lodge an objection which is not withdrawn the order, if confirmed, will be subject to special parliamentary procedure. (Lands belonging to statutory undertakers or local authorities acquired under s. 14 of the Restriction of Ribbon Development Act, 1935 (28 Halsbury's Statutes 93), are not subject to special parliamentary procedure. See Fourth Schedule, p. 692, *post*.) Commons, open spaces and allotments are subject to special parliamentary procedure unless the Minister of Agriculture (in the case of open spaces, the Minister of Town and Country Planning) certifies that equally suitable land is being given in exchange or that the land is required for highway widening and exchange is unnecessary. Representations may be made against the giving of the certificate and the Minister may hold an inquiry before granting, but he is not obliged to do so. The validity of the certificate is subject to the same provisions as relate to compulsory purchase orders (see Part IV of this Schedule, *post*). The site of an ancient monument or an object of archaeological interest is subject to special parliamentary procedure unless the Minister of Works certifies that the acquiring authority have entered into an undertaking to observe such conditions as to user as are requisite having regard to the nature of the land.

(b) **"Local authority."**—See definition contained in s. 8 (1), p. 668, *ante*.

(c) **"Statutory undertakers."**—For definition see s. 8 (1), p. 668, *ante*.

(d) **"National Trust."**—Means the National Trust for Places of Historic Interest or Natural Beauty incorporated by the National Trust Act 1907. See s. 8 (1), *ante*.

(e) **"Special parliamentary procedure."**—This means the procedure set out in the Statutory Orders (Special Procedure) Act, 1945 (38 Halsbury's Statutes 439). The order when confirmed is laid before Parliament by the confirming Minister, who must give three days' notice of his intention in the

Gazette. Fourteen days thereafter are allowed for the lodging of petitions against the order. These petitions may be of general objection or they may be for amendment of the order. After fourteen days the Lord Chairman of Committee and the Chairman of Ways and Means report to their respective Houses of Parliament whether petitions have been lodged; and a further fourteen days is allowed for either house to resolve that the order be annulled. If no such resolution is passed the petitions for amendment are referred to a Joint Committee of both Houses and the succeeding procedure in committee is similar to that on a Private Bill. Petitions of general objection will not be referred unless ordered by either House. A petition for amendment which would negative the main purpose of the order will be treated as a petition of general objection. Petitions for amendment and general objection must be lodged as separate petitions. After investigation in committee the order will be reported to Parliament. It may be reported without amendment, with amendment or that the order be not approved. Where reported without amendment it will come into force on the date of the report, unless a later date is provided in the order. If reported with amendment the Minister will determine the date of its coming into force. Where reported with amendment or if not approved the Minister may ask Parliament for a bill confirming his original order. A confirming Bill will be for all purposes a public Bill and the order will be treated as a Bill received from committee, with amendments for its third reading in either House. An exception to this procedure will be where the order has been thrown out on a petition of general objection and a petition for amendment has not been heard. In such case the Bill will go to the joint committee for investigation of the outstanding petition and thereafter each House will proceed to the third reading on the report of the committee. An order confirmed by this procedure is subject to the provisions as to validity contained in Part IV of this Schedule; except that where the order is confirmed by Act of Parliament no challenge in the High Court is possible.

(f) "**Appropriate Minister.**"—See s. 8 (1), p. 668, *ante*.

(g) "**Certifies.**"—For form of advertisement of the granting of a certificate under this Part of this Schedule, see S. R. & O., 1946, No. 573, Form No. 6, p. 705, *post*.

(h) "**Public local inquiry.**"—See notes to s. 178 of the Housing Act, 1936, p. 304, *ante*.

PART IV.

Validity (a) and date of operation (b) of compulsory purchase orders and certificates.

15.—(1) If any person aggrieved by a compulsory purchase order desires to question the validity (a) thereof, or of any provision contained therein, on the ground that the authorisation of a compulsory purchase thereby granted is not empowered to be granted under this Act or any such enactment as is mentioned in subsection (1) of section one of this Act, or if any person aggrieved by a compulsory purchase order or a certificate (c) under Part III of this Schedule desires to question the validity thereof on the ground that any requirement of this Act or of any regulation made thereunder has not been complied with in relation to the order or certificate, he may, within six weeks from the date on which notice of the confirmation or making of the order or of the giving of the certificate is first published in accordance with the provisions of this Schedule in that behalf, make an application to the High Court, and on any such application the Court—

(a) may by interim order suspend the operation of the compulsory order or any provision contained therein, or of the certificate,

either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings ;

- (b) if satisfied that the authorisation granted by the compulsory purchase order is not empowered to be granted as aforesaid, or that the interests of the applicant have been substantially prejudiced by any requirement of this Schedule or of any regulation made thereunder not having been complied with, may quash the compulsory purchase order or any provision contained therein, or the certificate, either generally or in so far as it affects any property of the applicant.

(2) Except by leave of the Court of Appeal, no appeal shall lie to the House of Lords from a decision of the Court of Appeal under the last foregoing sub-paragraph.

16. Subject to the provisions of the last foregoing paragraph, a compulsory purchase order or a certificate under Part III of this Schedule shall not, either before or after it has been confirmed, made or given, be questioned in any legal proceedings whatsoever, and shall become operative on the date (b) on which notice is first published as mentioned in the last foregoing paragraph.

17. This Part of this Schedule shall not apply to an order which is confirmed by Act of Parliament under section six of the Statutory Orders (Special Procedure) Act, 1945, but except as aforesaid shall have effect in relation to a compulsory purchase order to which that Act applies as if in sub-paragraph (1) of paragraph 15 for the reference to the date on which notice of the confirmation or making of the order is first published in accordance with the provisions of this Schedule in that behalf there were substituted a reference to the date on which the order becomes operative under the Statutory Orders (Special Procedure) Act, 1945, and as if in paragraph 16 the words from "and shall become operative" to the end were omitted (d).

NOTES TO FIRST SCHEDULE, PART IV

(a) "Validity."—The validity of the order may only be questioned on the grounds that it is not within the power of this Act or the authorising enactment ; or that substantial detriment has been caused through some failure to comply with the procedure of this Act. The manner of questioning the validity is by an application to the High Court who may suspend the operation of the order until a final determination. Formerly the method of questioning the decision of an administrative tribunal exercising a judicial function was by way of the prerogative writs of *certiorari* or prohibition, or by seeking an injunction in the Chancery Division. The procedure of this schedule was introduced by s. 11 of the Housing Act, 1930, and has been a feature of compulsory purchase legislation since. The Court will not review the merits of the case (see *Re Bowman, South Shields (Thames Street) Clearance Order*, 1931, [1932] 2 K. B. 621 ; Digest Supp.). In that case, however, SWIFT, J., left open the point where there was no evidence upon which a decision could have been made. *Re Ripon (Highfield) Housing Confirmation Order*, 1938, *White and Collins v. Minister of Health*, [1939] 2 K. B. 838 ; [1939] 3 All E. R. 548 ; Digest Supp., appears to suggest that the Court will review the evidence ; but the review of the evidence in that case was to determine, following the case of *Bunbury v. Fuller* (1853), 9 Exch. 111 ; 11 Digest 77, 985, whether the Minister had jurisdiction to make the order. In *London County Council (Riley Street, Chelsea, No. 1) Order* 1938, [1945] 2 All E. R. 484 ; 2nd Digest Supp., the Court stated that the validity of an order could only be questioned on the grounds that it was not within the powers of the Act or that some requirement of the Act had not been complied with ; and that

the Court had no other jurisdiction to quash the order even though it disagreed with the Minister's decision on the merits. In the exercise of his judicial function, of course, the Minister is bound to observe the rules of "natural justice" as laid down in *Board of Education v. Rice*, [1911] A. C. 179; 19 Digest 602, 290; and *Local Government Board v. Arlidge*, [1915] A. C. 120; 38 Digest 97, 708. And this is so even where no inquiry need be held, as in the case of a certificate given under Part III of this Schedule, *ante* (see *Re Mowsley (No. 1) Compulsory Purchase Order*, 1944 (1946), 175 L. T. 101). See also notes to s. 26 of the Housing Act, 1936, p. 103, *ante*, and the notes to s. 178 of the same Act, p. 304, *ante*.

(b) "**Date of operation.**"—Note that under para. 16, the order comes into operation on the date of publication of the notice of confirmation. This follows s. 161 (7) of the Local Government Act, 1933. Under the Second Schedule to the Housing Act, 1936, the order did not become operative until the expiry of six weeks from the publication of notice of confirmation (see para. 3 of that Schedule, p. 329, *ante*).

(c) "**Certificate.**"—A certificate granted under Part III of this schedule is subject to the same provisions as to validity as a compulsory purchase order. See note (a), *supra*.

(d) **Paragraph 17.**—See note (e) to Part III of this Schedule, *ante*.

PART V.

General.

18. Anything required or authorised by this Schedule to be prescribed shall be prescribed by regulations (a) made by the Minister of Health.

19.—(1) Any notice or other document required or authorised to be served under this Schedule may be served on any person either by delivering it to him, or by leaving it at his proper address, or by post, so however that the document shall not be duly served by post unless it is sent by registered letter (b).

(2) Any such document required or authorised to be served upon an incorporated company or body shall be duly served if it is served upon the secretary or clerk of the company or body.

(3) For the purposes of this paragraph and of section twenty-six of the Interpretation Act, 1889 (c), the proper address of any person upon whom any such document as aforesaid is to be served shall, in the case of the secretary or clerk of any incorporated company or body, be that of the registered or principal office of the company or body, and in any other case be the last known address of the person to be served:

Provided that where the person to be served has furnished an address for service, his proper address for the purposes aforesaid shall be the address furnished.

(4) If the Minister having jurisdiction to confirm or make the order in connection with which the document is to be served is satisfied that reasonable inquiry has been made and that it is not practicable to ascertain the name or address of an owner, lessee or occupier of land on whom any such document as aforesaid is to be served, the document may be served by addressing it to him by the description of "owner", "lessee" or "occupier" of the land (describing it) to which it relates, and by delivering it to some person on the premises or, if there is no person on the premises to whom it may be delivered, by affixing it or a copy of it to some conspicuous part of the premises (d).

NOTES TO FIRST SCHEDULE, PART V

(a) "**Prescribed by regulations.**"—For regulations prescribed under this Act see S. R. & O., 1946, No. 573, p. 701, *post*.

(b) "**Registered letter.**"—This enables prepayment to be proved (*Walthamstow Urban District Council v. Henwood*, [1897] 1 Ch. 41 ; 38 Digest 171, 148).

(c) **Section 26, Interpretation Act, 1889.**—See 18 Halsbury's Statutes 1002.

(d) **Paragraph 19 (4).**—This sub-paragraph gives the confirming authority jurisdiction to decide what is a "reasonable inquiry."

SECOND SCHEDULE.

Section 1.

INCORPORATION OF ENACTMENTS.

PART I.

The Lands Clauses Acts.

1. In relation to any compulsory purchase to which the provisions of the foregoing Schedule apply the Lands Clauses Acts are hereby incorporated with the enactment under which the purchase is authorised ; and in construing those Acts as so incorporated—

- (a) the enactment under which the purchase is authorised and the compulsory purchase order shall be deemed to be the special Act ;
- (b) references to the promoters of the undertaking shall be construed as references to the authority authorised by the compulsory purchase order to purchase the land.

2. The following sections of the Lands Clauses Consolidation Act, 1845, shall be excepted from incorporation as aforesaid, that is to say—

- (a) sections one hundred and twenty-seven to one hundred and thirty-two (which relate to the sale of superfluous land) ;
- (b) in the case of a purchase under the Housing Act, 1936, and in any other case in which the compulsory purchase order so provides, section one hundred and thirty-three (which relates to promoters making good deficiencies in land tax and rates) ; and
- (c) sections one hundred and fifty and one hundred and fifty-one (which relate to access to the special Act).

3.—(1) Where a local authority or Minister have been authorised in accordance with the provisions of section one of this Act to purchase any land compulsorily, then, at any time after serving notice to treat (a) and after serving on the owner, lessee and occupier of the land not less than fourteen days notice, the authority or Minister may enter (b) on and take possession of the land or such part thereof as is specified in the notice without previous consent or compliance with sections eighty-four to ninety of the Lands Clauses Consolidation Act, 1845, but subject to the payment of the like compensation (c) for the land of which possession is taken, and interest on the compensation awarded, as would have been payable if the provisions of those sections had been complied with.

(2) Where under this paragraph any notice is required to be served on an owner of land, and the land is ecclesiastical property as defined in paragraph 3 of the foregoing Schedule, a like notice shall be served on the Ecclesiastical Commissioners.

(3) Paragraph 19 of the foregoing Schedule shall apply to the service of notices under this paragraph.

4. The following provisions shall have effect in substitution for the provisions of section ninety-two of the Lands Clauses Consolidation Act, 1845, that is to say, no person shall be required to sell a part only of any house, building or manufactory, or of a park or garden belonging to a house, if he is willing and able to sell the whole of the house, building, manufactory, park or garden, unless the tribunal by whom the compensation is to be assessed determines that, in the case of a house, building or manufactory, such part as is proposed to be taken can be taken without material detriment to the house, building or manufactory, or, in the case of a park or garden, that such part as aforesaid can be taken without seriously affecting the amenity or convenience of the house, and, if the tribunal so determines, the tribunal shall award compensation in respect of any loss due to the severance of the part so proposed to be taken, in addition to the value of that part, and thereupon the party interested shall be required to sell to the acquiring authority that part of the house, building, manufactory, park or garden.

5. Any sums agreed upon or awarded for the purchase of land being ecclesiastical property as defined in paragraph 3 of the foregoing Schedule, or to be paid by way of compensation for damage sustained by reason of severance or injury affecting such land, shall not be paid as directed by the Lands Clauses Acts, but shall be paid to the Ecclesiastical Commissioners to be applied for the purposes for which the proceeds of a sale by agreement of the land would be applicable under any enactment or Measure authorising such a sale or disposing of the proceeds of such a sale.

6. Notices required to be served by the acquiring authority may, notwithstanding anything in section nineteen of the Lands Clauses Consolidation Act, 1845, be served and addressed in the manner specified in paragraph 19 of the foregoing Schedule.

NOTES TO SECOND SCHEDULE, PART I

General Note.—The Lands Clauses Acts are to be incorporated subject to the following modifications. The authorising enactment and the order are to be the special Act. The acquiring authority are the promoters. Ss. 127 to 132 of the Lands Clauses Consolidation Act, 1845, pp. 823 *et seq.*, *post*, are excepted. S. 133 is excepted in the case of purchases under the Housing Acts because of s. 147 of the Housing Act, 1936, p. 279, *ante*, which exempts such purchases from the provisions of the section. Ss. 150 and 151 are inappropriate since the special Act will in most cases be a public general Act, and are also excepted. Ss. 84 to 90 are varied to permit entry in accordance with the provisions of this Act, but subject to the payment of the like compensation as if those provisions had been complied with. The provisions of para. (4) are substituted for s. 92; and notwithstanding s. 19 of the 1845 Act the provisions applicable to notices and the serving of them is to be as provided for in para. 19 of the First Schedule. The incorporation of s. 77 and ss. 78 to 85 of the Railways Clauses Consolidation Act, 1845 (14 Halsbury's Statutes 30) (as originally enacted), or s. 77 only is made optional; but in Circular 126/46 dated 17th June, 1946, the Minister of Health recommends that the option should be exercised in favour of incorporation of ss. 77 to 85, in all purchases for housing purposes, as these provisions are for the protection

of the acquiring authority's interest. The Acquisition of Land (Assessment of Compensation) Act, 1919, p. 721, *post*, is incorporated subject to the provisions of Part III of this Schedule, which direct the arbitrator under that Act to disregard anything done or any interest created* which is not reasonably necessary and which was done for the purpose of obtaining or increasing the compensation payable. This provision is similar to para. 2 (b) of the First Schedule to the Housing Act, 1936, p. 321, *ante*.

(a) "**Notice to treat.**"—Can be served so soon as the purchase is authorised (Lands Clauses Consolidation Act, 1845, s. 18, p. 797, *post*), *i.e.*, when the order becomes operative, the date of publication of the notice of confirmation.

(b) "**Enter.**"—Entry may be made fourteen days after the publication of notice of confirmation of the order provided notice to treat and notice of intention to enter are served immediately after publication of the notice of confirmation.

(c) "**Compensation.**"—Will be assessed on the basis set out in ss. 49, 63 and 68 of the Lands Clauses Consolidation Act, 1845, pp. 802, 805, 806, *post*, subject to the rules enacted by s. 2 of the Acquisition of Land (Assessment of Compensation) Act, 1919, p. 725, *post*, as amended by Part III of this Schedule; and, in the case where notice to treat is served before the 17th November, 1949, subject to the limitation of values by reference to prices current at the 31st March, 1939 (see Part II of the Town and Country Planning Act, 1944, p. 737, *post*).

PART II.

Railways Clauses Consolidation Act, 1845.

7.—(1) A compulsory purchase order may make provision for the incorporation with the enactment under which the purchase is authorised of section seventy-seven of the Railways Clauses Consolidation Act, 1845 (which relates to the exception of minerals from purchases) and sections seventy-eight to eighty-five of that Act (which relate to restrictions on the working of minerals) as originally enacted and not as amended for certain purposes by section fifteen of the Mines (Working Facilities and Support) Act, 1923, or the said section seventy-seven only (a).

(2) Such provision as may be made as to all or any of the land to which the compulsory purchase order relates, and may include such modification (b) of references in the said sections to the railway or works, or to the company, as may be specified in the order, and sub-paragraph (a) of paragraph 1 of this Schedule shall apply for the construction of the said sections as incorporated by the order.

NOTES TO SECOND SCHEDULE, PART II

(a) **Paragraph 7 (1).**—As to the effect of this provision see note (d) to the First Schedule to the Housing Act, 1936, p. 326, *ante*.

(b) **Modification.**—A common form of modification for inclusion in the order is suggested in Circular 126/46 of the 17th June, 1946, as follows:—
"References in the said sections to the company shall be construed as references to the acquiring authority and references to the railway or works shall be construed as references to the lands authorised to be taken and any buildings or works constructed or to be constructed thereon.

PART III.

Acquisition of Land (Assessment of Compensation) Act, 1919.

8. The arbitrator shall not take into account any interest in land, or any enhancement of the value of any interest in land by reason of any building erected, work done or improvement or alteration made, whether on the land purchased or on any other land with which the claimant is, or was at the time of the erection, doing or making of the building, works, improvement or alteration, directly or indirectly concerned, if the arbitrator is satisfied that the creation of the interest, the erection of the building, the doing of the work, the making of the improvement or the alteration, as the case may be, was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

PART IV.

Purchases under Section 2.

9. In relation to a compulsory purchase authorised in accordance with section two of this Act, references in sub-paragraph (b) of paragraph 2 and in paragraph 7 of this Schedule, or in subsection (4) of section eighteen of the Town and Country Planning Act, 1944 (a), to an order authorising a compulsory purchase of land shall be construed as references to the authorisation under section two of this Act.

NOTE TO SECOND SCHEDULE, PART IV

(a) **Section 18 (4) of the Town and Country Planning Act, 1944.**—

This sub-section is a provision similar to that contained in para. 7 of this Schedule. See note (d) to the First Schedule to the Housing Act, 1936, p. 326, *ante*.

THIRD SCHEDULE.

(Section 2.)

PROVISIONS AS TO AUTHORISATIONS UNDER SECTION 2.

1.—(1) No authorisation under section two of this Act shall be given with respect to land of any description specified in subsection (2) of section one thereof, or with respect to any dwelling house (a).

(2) In this paragraph the expression “dwelling house” means any building or part of a building in which persons are residing, and includes any other building or part of a building in which persons normally reside but from which they are temporarily absent.

2.—(1) Before an authorisation is given under section two of this Act the acquiring authority must—

(a) have published in one or more local newspapers circulating in the locality in which any of the land to which the authorisation relates is situated a notice (b) stating that the confirming authority is about to take into consideration the giving of an authorisation under section two of this Act with respect to land described in the notice, being land consisting of or comprised in the land to which the authorisation relates, and that representations which any

person desires to make must be made to the confirming authority in writing within fourteen days from the date of the publication of the notice ; and

- (b) have served on every owner and occupier of any of the land to which the authorisation relates a notice (b) in writing stating that the confirming authority is about to take into consideration the giving of an authorisation as aforesaid, and that representations which any of the persons required to be served desires to make must be made to the confirming authority in writing within fourteen days from the date of the service of the notice on him.

(2) A notice under the last foregoing sub-paragraph may be served—

- (a) on a person being an owner or occupier if the notice is addressed to him by name and is delivered to him or left at, or sent in a registered letter by post to, his usual or last known place of abode (c) ;
- (b) on a person being an owner or occupier of any premises which appear to the acquiring authority to be separately occupied, by addressing the notice to " the owner and the occupier " of the premises (describing them), and either by delivering it to some person on the premises, or, if there is no person on the premises to whom it can be delivered, by affixing it to some conspicuous object on the premises ;
- (c) on all persons being owners or occupiers (if any) of premises comprised in land which appears to the acquiring authority to be unoccupied, by addressing the notice to " the owners and any occupiers " of the land (describing it), and by affixing it to some conspicuous object on the land.

(3) Where under sub-paragraph (1) of this paragraph any notice is required to be served on an owner of land, and the land is ecclesiastical property as defined in paragraph 3 of the First Schedule to this Act, a like notice shall be sent in a registered letter by post to the secretary of the Ecclesiastical Commissioners at their principal office.

3. Before giving an authorisation under section two of this Act the confirming authority shall consider (d) any representations duly made to the authority ; and as soon as may be after the authorisation has been given or the decision has been taken to refuse it the confirming authority shall send to any person who has made representations with respect thereto specifying an address for the purposes of this paragraph, notification thereof in a registered letter by post to the address specified.

4. Anything authorised or required by this Schedule or by section two of this Act to be done by, to or before the Board of Trade may be done by, to or before the President of the Board, any secretary, under-secretary or assistant secretary of the Board, or any person authorised in that behalf by the President.

NOTE TO THIRD SCHEDULE

General Note.—The procedure set out in s. 2 (see p. 657, *ante*) and this Schedule bears many resemblances to the procedure contained in s. 6 of the Housing (Temporary Accommodation) Act, 1944, p. 408, *ante*. This procedure however, is dependent on the confirming Minister being satisfied that it is expedient and urgently necessary that the acquiring authority should have possession without delay. Instead of making a compulsory purchase order the acquiring authority submit an application to the Minister for an authorisa-

tion in writing to purchase the land. Before the authorisation is given there must be public advertisement, and service of notice, stating that the confirming authority is about to take into consideration the giving of an authorisation. Notice may be served in manner prescribed by para. 2 (2). Objections or representations must be made within fourteen days of the notice or advertisement. No specific provision is made for a local inquiry or hearing, but either can be held at the discretion of the confirming authority. The confirming authority must consider any representations which are duly made and communicate the authority's decision to all persons who have made representations. If the authorisation is granted the acquiring authority may enter and take possession at any time not earlier than seven days after the granting of the authorisation; and if they do not enter within three months the authorisation will lapse. Notice to treat is served and completion of the purchase is made after the acquiring authority are in possession. After entry the power to withdraw the notice to treat contained in s. 5 (2) of the Acquisition of Land (Assessment of Compensation) Act, 1919, p. 730, *post*, is not exercisable and the acquiring authority must complete the purchase. The procedure of Part IV of the First Schedule relating to validity of compulsory purchase orders is not made applicable specifically to authorisations under s. 2 and this Schedule. It would appear therefore that the validity of an authorisation might be questioned by application to the Divisional Court for a writ of *certiorari* or prohibition (*Minister of Health v. R., Ex parte Yaffe*, [1931] A. C. 494; Digest Supp.) or to the Chancery Division for an injunction to restrain the acquiring authority from acting on the authorisation; but see *R. v. Minister of Health, Ex parte Waterlow & Sons, Ltd.*, [1946] K. B. 485; [1946] 2 All E. R. 189.

(a) "**Dwelling house.**"—Note the definition of dwelling house contained in the succeeding sub-paragraph.

(b) "**Notice.**"—For form of notice and press advertisement see Appendix B to enclosure to Circular 104/46 dated the 24th May, 1946, p. 716, *post*.

(c) "**Last known place of abode.**"—Apparently service will be good, although it is known that the person has left that place (*Re Follick, Ex parte Trustee* (1907), 97 L. T. 645; 4 Digest 508, 4587). See also s. 26 of the Interpretation Act, 1889 (18 Halsbury's Statutes 1002).

(d) "**Consider.**"—It is submitted that in considering representations which are duly made the confirming authority is acting in a quasi judicial capacity. See *Board of Education v. Rice*, [1911] A. C. 179; 19 Digest 602, 290; *Local Government Board v. Arlidge*, [1915] A. C. 120; 38 Digest 97, 708; *Re Mowsley (No. 1) Compulsory Purchase Order*, 1944 (1946), 175 L. T. 101; and *R. v. Minister of Health, Ex parte Waterlow & Sons, Ltd.*, [1946] K. B. 485; [1946] 2 All E. R. 189.

FOURTH SCHEDULE.

(Section 6.)

MINOR AND CONSEQUENTIAL AMENDMENTS.

Enactment amended.

The Explosives Act, 1875.
(38 & 39 Vict. c. 17.)

Amendments.

In section one hundred and thirteen, for the words from "shall have" to "by agreement" there shall be substituted the words "may be authorised by the Secretary of State to purchase land compulsorily", and the words from "that any local authority" to the end of the section shall be omitted.

*Enactment amended.**Amendments.*

The Public Parks (Scotland) Act, 1878.
(41 & 42 Vict. c. 8.)

[*Applies to Scotland.*]

The Metropolitan Police Act, 1886.
(49 & 50 Vict. c. 22.)

In section two, for the words "purchase and" there shall be substituted the words "purchase by agreement, or, if so authorised by the Minister of Health, compulsorily, or".

In section four, subsections (1) to (10) shall cease to have effect; and in subsection (11), after the word "Act" there shall be inserted the words "and of the Acquisition of Land (Authorisation Procedure) Act, 1946"; after the word "shall" where it first occurs there shall be inserted the words "with the necessary modifications," and for the words from "save that the provisions" to "Parliament" there shall be substituted the words "and where an order authorising the compulsory purchase under this Act of any such land has come into operation."

The Military Lands Act, 1892.
(55 & 56 Vict. c. 43.)

In section one, in subsection (3), for the words "and hold" there shall be substituted the words "by agreement or, if so authorised by the Secretary of State, compulsorily", and at the end there shall be added the words "and may hold land on that behalf".

Section two shall not apply to compulsory purchases by a local authority.

The Burgh Police (Scotland) Act, 1892.
(55 & 56 Vict. c. 55.)

[*Applies to Scotland.*]

The Diseases of Animals Act, 1894.
(57 & 58 Vict. c. 57.)

In section thirty-three, in subsection (1), after the word "purchase" there shall be inserted the words "by agreement, or if so authorised by the Minister of Agriculture and Fisheries compulsorily," and subsection (3) shall cease to have effect.

For section sixty-one the following section shall be substituted:—

"61. A local authority may be authorised by the Secretary of State to purchase land compulsorily for any purpose mentioned in section thirty-three of this Act."

The Local Government (Scotland) Act, 1894.
(57 & 58 Vict. c. 58.)

[*Applies to Scotland.*]

The Public Health (Scotland) Act, 1897.
(60 & 61 Vict. c. 38.)

[*Applies to Scotland.*]

Enactments amended.

Amendments.

The Burgh Police (Scotland) Act, 1903.
(3 Edw. 7. c. 33.)

[*Applies to Scotland.*]

The Small Holdings and Allotments Act, 1908.
(8 Edw. 7. c. 36.)

In section twenty-five, in subsection (1), at the end there shall be added the words "or may purchase such land compulsorily in accordance with the provisions of this Act and of the Acquisition of Land (Authorisation Procedure) Act, 1946, in that behalf", and subsection (2) shall cease to have effect.

In section thirty-nine, in subsection (1), for the words from "subject to" to the end of the subsection there shall be substituted the words "be authorised so to do by the Minister of Agriculture and Fisheries", in subsection (3) for the words "this section" there shall be substituted the words "the last foregoing subsection", and in subsection (4) for the words "under this section" there shall be substituted the words "for the compulsory purchase or hiring of land under this Act".

In section forty-one, in subsection (1), the words from "or which at that date" to the end shall be omitted.

In section forty-five, the words from "and the provisions" to the end shall be omitted.

In the First Schedule, Part I shall cease to have effect in relation to compulsory purchase.

The Local Government (Scotland) Act, 1908.
(8 Edw. 7. c. 62.)

[*Applies to Scotland.*]

The Electric Lighting Act, 1909.
(9 Edw. 7. c. 34.)

In section one, in subsection (1), after the word "person" there shall be inserted the words "or may by compulsory purchase order under the Acquisition of Land Authorisation Procedure) Act, 1946, authorise any local authority, being, in either case, an authority, company or person", and paragraph (c) of the First Schedule shall apply in relation to any compulsory purchase under the Act authorised by a compulsory purchase order.

The Development and Road Improvement Funds Act, 1909.
(9 Edw. 7. c. 47.)

In relation to acquisition by local authorities or by the Minister of Transport, the Act shall be amended as follows.

In section five, subsection (1) shall have effect with the substitution for the words from "and hold land" to the end of the subsection of the words "either by agreement or, if so authorised by the Secretary

*Enactment amended.**Amendments.*

of State, Minister or Board in charge of the Department concerned with the said purpose, compulsorily, and hold land for the purpose; and the provisions of the Schedule to this Act shall have effect in relation to any compulsory acquisition under this section", in subsection (2), the words from "or which at that date" to the end shall be omitted, and in subsection (3), for the words "The Commissioners in making an order for" there shall be substituted the words "The said Secretary, Minister or Board in authorising".

In section eleven, so much of subsection (5) as precedes the proviso thereto shall have effect as if it provided that a highway authority may be authorised by the Minister of Transport to acquire compulsorily any land which they consider necessary for the purpose mentioned in subsection (3) of the section, that the Minister of Transport may acquire compulsorily any such land as is mentioned in subsection (1) thereof which he considers necessary, and that the provisions of the Schedule to the Act shall have effect in relation to any compulsory acquisition under the section.

Section nineteen shall cease to have effect.

In the Schedule, paragraphs 1 to 4 and 6 and 7 shall cease to have effect, in paragraph 5 after the word "order" there shall be inserted the words "authorising a compulsory purchase under this Act", and in paragraph 8 the words from the first "the" to "and" shall cease to have effect.

The National Insurance
Act, 1913.
(3 & 4 Geo. 5. c. 37.)

In section forty-one, in subsection (1), for the words from "and the provisions" to the end of the subsection there shall be substituted the words, "and may be authorised by the Secretary of State to purchase land compulsorily for the said purpose".

The Mental Deficiency
and Lunacy (Scotland)
Act, 1913.
(3 & 4 Geo. 5. c. 38.)

[Applies to Scotland.]

The Education (Scotland)
Act, 1918.
(8 & 9 Geo. 5. c. 48.)

[Applies to Scotland.]

The Electricity (Supply)
Act, 1919.
(9 & 10 Geo. 5. c. 100.)

In section eleven, after the words "this Act" there shall be inserted the words "or in any compulsory purchase order under the

Enactment amended.

Amendments.

The Land Settlement
(Facilities) Act, 1919.
(9 & 10 Geo. 5. c. 59.)

Acquisition of Land (Authorisation Procedure) Act, 1946".

In section two, in subsection (1), for the words from the beginning to "entered on land" there shall be substituted the words "Where the Council authorised to purchase any land compulsorily under the principal Act have, by virtue of paragraph (3) of the Second Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, entered on the land", in subsection (3) for the words "under this section" in the first place in which they occur there shall be substituted the words "given in the circumstances mentioned in subsection (1) of this section, or given under the last foregoing subsection," and the said words in the second place in which they occur shall be omitted.

The foregoing amendments shall not affect the application of the said section two in relation to the compulsory hiring of land or to an agreement to hire land.

In section twelve, subsection (3) shall not apply to land purchased compulsorily.

Subsections (1) to (3) of section twenty-eight shall not apply to the compulsory purchase of land by a local authority.

The Public Libraries Act,
1919.
(9 & 10 Geo. 5, c. 93.)

In section six, after the words "may be authorised" there shall be inserted the words "by the Minister of Education"; and the words from "in the same manner" to the end shall be omitted.

The Housing (Scotland)
Act, 1925.
(15 & 16 Geo. 5. c. 15.)

[Applies to Scotland.]

The Small Holdings and
Allotments Act, 1926.
(16 & 17 Geo. 5. c. 52.)

In section four, for the words from "a county council" to "such land" there shall be substituted the words "a county council may purchase land (whether situate within or without the county) by agreement or, if so authorised by the Minister, compulsorily, or may take such land on lease by agreement or, if the council are unable to obtain by agreement suitable land for the purpose," and for the word "acquisition" there shall be substituted the word "hiring".

In section seventeen, subsection (2) shall cease to have effect.

The Housing (Scotland)
Act, 1930.
(20 & 21 Geo. 5. c. 40.)

[Applies to Scotland.]

Enactment amended.

The Land Drainage Act,
1930.
(20 & 21 Geo. 5. c. 44.)

The Town and Country
Planning Act, 1932.
(22 & 23 Geo. 5. c. 48.)

Amendments.

In section forty-five, in subsection (2), after the word "authorised" there shall be inserted the words "by the Minister", and the words from "by means of" to the end of the subsection shall be omitted, and in subsection (3), the words "or any order made thereunder", and the words from "or which is vested" to the end of the subsection, shall be omitted.

The Fourth Schedule shall cease to have effect.

In section twenty-five, in subsection (2), for the words from the beginning of the subsection to the beginning of the proviso there shall be substituted the words "The responsible authority may be authorised by the Minister to purchase compulsorily any land which they are authorised by the foregoing provisions of this section to purchase; and the provisions of the Third Schedule to this Act shall have effect in relation to any compulsory purchase under this section", and subsections (3) and (6) shall cease to have effect.

In section thirty-five, in subsection (2), after the word "Act" where it first occurs there shall be inserted the words "and of the Acquisition of Land (Authorisation Procedure) Act, 1946."

Section forty-three shall cease to have effect in relation to compulsory purchase.

In the First Schedule, Part III shall cease to have effect.

In the Third Schedule, in Part I, paragraph 1 and paragraphs 4 to 6 shall cease to have effect; in paragraph 2, for the words from the beginning to "in respect of" there shall be substituted the words "An order authorising the compulsory purchase of", and in paragraph 3, for the words from the beginning to the end of sub-paragraph (ii) there shall be substituted the words "Part III of the Second Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, shall have effect, in relation to the compulsory purchase of land under this Act, as if the following provision were included therein", and sub-paragraph (iv) shall cease to have effect; and Part II, except paragraph 3 and paragraph 4 in so far as it relates to appropriation, shall cease to have effect, and in the said paragraph 3 for the words "confirm an order

Enactment amended.

Amendments.

for," there shall be substituted the word
authorise".

The Town and Country
Planning (Scotland)
Act, 1932.
(22 & 23 Geo. 5. c. 49.)

[*Applies to Scotland.*]

The Children and Young
Persons Act, 1933.
(23 Geo. 5. c. 12.)

In section ninety-six, subsection (5) shall have effect, in relation to the compulsory purchase of land, as if it provided that the council of a county borough or urban district may be authorised by the Minister of Health to purchase land compulsorily for the purposes of their functions under that Act.

The Local Government
Act, 1933.
(23 & 24 Geo. 5. c. 51.)

In relation to the compulsory purchase of land in a case falling within subsection (1) of section one of this Act, the Act shall be amended as follows.

In section one hundred and fifty-nine, after the word "authorised", in each place where that word occurs, there shall be inserted the words "by the Minister".

Sections one hundred and sixty to one hundred and sixty-two shall cease to have effect.

In section one hundred and sixty-eight, in subsection (3), for the words from "make and submit to the Minister" to "under this section" there shall be substituted the words "be authorised by the Minister to purchase compulsorily the land or any part thereof, and the provisions of the Acquisition of Land (Authorisation Procedure) Act, 1946, shall have effect in relation to the compulsory purchase order authorising the purchase"; in paragraph (a), the reference to persons upon whom notices are required to be served shall be construed as a reference to owners, lessees and occupiers of the land in question, and in paragraph (b) of that subsection, for the words "in the order" there shall be substituted the words "with this section"; in subsection (4) and subsection (7), for the word "under" there shall be substituted the words "for the purposes of", and after the words "and this section" in the said subsection (7) there shall be inserted the words "and the provisions of the said Act of 1946".

Sections one hundred and seventy-four and one hundred and seventy-five shall cease to have effect.

In section one hundred and seventy-nine,

*Enactment amended.**Amendments.*

paragraphs (a) to (c) and (g) shall cease to have effect.

The Sixth Schedule shall cease to have effect.

The Restriction of Ribbon Development Act,
1935.
(25 & 26 Geo. 5. c. 47.)

In section thirteen, in subsection (1), after the word "acquire" there shall be inserted the words "by agreement or, if so authorised by the Minister, compulsorily," and the words from "and if they are unable" to the beginning of the proviso shall be omitted; in the said proviso, for the words from the beginning to "modifications" there shall be substituted "Provided that the modifications subject to which the Lands Clauses Acts and the Acquisition of Land (Assessment of Compensation) Act, 1919, shall apply in relation to a compulsory purchase under this section shall include the following"; in subsection (3), in paragraph (b), for the words "by means of a compulsory purchase order" there shall be substituted the words "under this section in accordance with the provisions of section one of the Acquisition of Land (Authorisation Procedure) Act, 1946," and subsections (5) and (6) shall cease to have effect.

In section fourteen, the expression "compulsory purchase order" shall mean an order made, or made and confirmed, in the like manner and subject to the like conditions as an order authorising a compulsory purchase under section thirteen, and notwithstanding anything in subsection (2) of section one of this Act or Part III of the First Schedule thereto a compulsory purchase order shall not be subject to special parliamentary procedure by reason only that it authorises the acquisition of any right such as is mentioned in subsection (1) of the said section fourteen, nor shall anything in the said Part III prevent the acquisition of any such right.

The Air Navigation Act,
1936.
(26 Geo. 5. & 1 Edw. 8.
c. 44.)

In section nine, in subsection (1), the words from "by means of" to "confirmed", and subsection (2), shall cease to have effect.

The First Schedule shall cease to have effect.

The Public Health Act,
1936.
(26 Geo. 5. & 1 Edw. 8.
c. 49.)

In section three hundred and six, for the words from "to purchase" to the beginning of the proviso there shall be substituted the words "by the Minister to purchase land compulsorily".

Enactment amended.

The Public Health
(London) Act, 1936.
(26 Geo. 5. & 1 Edw. 8.
c. 50.)

Amendments.

In section sixty-nine, for subsections (2) and (3) there shall be substituted the following subsections :—

"(2) The county council or a borough council may acquire by agreement any land for the purposes of this Part of this Act, and the county council may acquire any land for those purposes compulsorily if so authorised by the Minister of Health.

(3) In the last foregoing subsection the expression 'land' includes any right or easement in or over land.

(4) In relation to the acquisition by agreement of any land for the purposes of this Part of this Act the Lands Clauses Acts (except the provisions thereof with respect to the purchase and taking of land otherwise than by agreement) shall be incorporated with this Act ; and

(a) the provisions of the said Acts so incorporated which would be applicable in the case of a purchase of land shall be applicable in the case of a purchase of a right or easement in or over land ; and

(b) for the purposes of this Part of this Act the expression 'the promoters of the undertaking,' wherever used in the Lands Clauses Acts, shall be construed as meaning the county council or the borough council, as the case may be."

In section one hundred and sixty-eight, in subsection (2), for the words from "to acquire" to the end of the proviso there shall be substituted the words "by the Minister to purchase land compulsorily for the purposes of this Part of this Act."

The Third Schedule shall cease to have effect.

The Housing Act, 1936.
(26 Geo. 5. & 1 Edw. 8.
c. 51.)

In section seventy-four, in subsection (1), for the words from "by means of" to the end of the subsection there shall be substituted the words "by the Minister", and subsection (4) shall cease to have effect.

Section seventy-five shall cease to have effect.

Subsection (2) of section one hundred and forty-two, sections one hundred and forty-three and one hundred and forty-four, and subsection (1) of section one hundred and forty-five, shall cease to have effect as respects

*Enactment amended.**Amendments.*

The Trunk Roads Act,
1936.
(1 Edw. 8 & 1 Geo. 6.
c. 5.)

the compulsory acquisition of land under Part V of the Act.

In the Fourth Schedule, in paragraph 6, in sub-paragraph (a), for the words "by them and confirmed" shall be substituted the words "if so authorised by the Minister", and paragraph (b) shall cease to have effect.

The Harbours, Piers and
Ferries (Scotland) Act,
1937.
(1 Edw. 8 & 1 Geo. 6.
c. 28.)

[*Applies to Scotland.*]

The Children and Young
Persons (Scotland) Act,
1937.
(1 Edw. 8 & 1 Geo. 6.
c. 37.)

[*Applies to Scotland.*]

The Physical Training
and Recreation Act,
1937.
(1 Edw. 8. & 1 Geo. 6.
c. 46.)

In section five, in subsection (1), for the words from "may purchase" to the end of the subsection there shall be substituted the words "may be authorised by the Minister of Health to purchase land compulsorily".

In section ten, in subsection (6), after the word "acquire" there shall be inserted the words "by agreement or, if so authorised by the Secretary of State, compulsorily" and the words from "and if they" to the end of the subsection shall be omitted.

The Air-Raid Precau-
tions Act, 1937.
(1 & 2 Geo. 6. c. 6.)

In section five, for the words from "purchase land compulsorily" to the end of the section there shall be substituted the words "be authorised by the Secretary of State to purchase land compulsorily for any of the purposes of this Act".

In section thirteen, in subsection (9), after the word "acquire" there shall be inserted the words "by agreement or, if so authorised by the Secretary of State, compulsorily" and the words from "end where they" to the end of the subsection shall be omitted.

The Fire Brigades Act,
1938.
(1 & 2 Geo. 6. c. 72.)

In section one, in subsection (6), in paragraph (b), for the words "by means of an order made by the authority and confirmed" there shall be substituted the words "if authorised in that behalf".

In section twenty-seven, subsection (3) shall cease to have effect.

In section twenty-eight, in subsection (18), for the words from "shall have" to the end of the subsection there shall be substituted

Enactment amended.

Amendments.

The Civil Defence Act,
1939.
(2 & 3 Geo. 6. c. 31.)

the words " may acquire by agreement, or, if so authorised by the Secretary of State, compulsorily, land for the purposes of their powers and duties under this Act ".

In section sixty-three, subsection (1) shall cease to have effect, and subsection (2) shall have effect as if it provided that notwithstanding anything in this Act an order for the compulsory acquisition of land under section five of the Air Raid Precautions Act, 1937 (either as originally enacted or as amended or applied by any provision of the Civil Defence Act, 1939) may, if the Minister thinks fit, be confirmed without public local inquiry or hearing, whether or not there has been an objection.

The London Government
Act, 1939.
(2 & 3 Geo. 6. c. 40.)

In section one hundred, after the word " authorised " there shall be inserted the words " by the Minister ".

Sections one hundred and one to one hundred and five shall cease to have effect.

In section one hundred and fourteen, in subsection (1), paragraphs (a) and (c) shall cease to have effect, and paragraph (b) of that subsection and subsection (2) shall not apply to the compulsory purchase of land in a case falling within subsection (1) of section one of this Act.

The Fourth Schedule shall cease to have effect.

The Education Act, 1944.
(7 & 8 Geo. 6. c. 31.)

In section ninety, in subsection (1), for the words " by means of an order made by the authority and confirmed by the Minister " there shall be substituted the words " by the Minister ", and the words from " and with respect to " to the beginning of the proviso shall be omitted, and in the proviso for the words " confirm a compulsory purchase order for " there shall be substituted the word " authorise ".

The Housing (Temporary
Provisions) Act, 1944.
(7 & 8 Geo. 6. c. 33.)

In section two, for the reference to the First Schedule to the Housing Act, 1946, there shall be substituted a reference to the First Schedule to this Act, and for the words " causing a public local inquiry to be held " there shall be substituted the words " public local inquiry or hearing."

The Housing (Scotland)
Act, 1944.
(7 & 8 Geo. 6. c. 39.)

[*Applies to Scotland.*]

Enactment amended.

The Water Act, 1945.
(8 & 9 Geo. 6. c. 42.)

The Requisitioned Land
and War Works Act,
1945.
(8 & 9 Geo. 6. c. 43.)

The Water (Scotland)
Act, 1946.
(9 & 10 Geo. 6. c. 42.)

Amendments.

In relation to local authorities, the Act shall be amended as follows :

In section twenty-four, in subsection (4), the words "by means of a compulsory purchase order made by them and confirmed", and subsections (5) to (9) shall cease to have effect.

The Second Schedule shall cease to have effect.

In the Third Schedule, in section 7, in subsection (1), the words "by means of a compulsory purchase order made by the undertakers and confirmed" shall cease to have effect ; for the reference to the Second Schedule there shall be substituted a reference to this Act, and the words "order made" shall cease to have effect.

In section twenty-six, in subsection (1), the words "by means of an order made by them and confirmed" shall be omitted.

In section twenty-seven, in subsection (1), for the words from the beginning to the end of paragraph (b) there shall be substituted the words "The provisions of the First Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, shall apply in relation to a purchase of land authorised under this Part of this Act subject to the following modifications, that is to say" ; in sub-paragraph (i) of paragraph (c) of the said subsection (1), for the words "subsection (3) of the said section one hundred and sixty-one" there shall be substituted the words "paragraph 3 of the said First Schedule", and in sub-paragraph (ii) of the said paragraph (c), for the words "without causing a local inquiry to be held" there shall be substituted the words "authorising a compulsory purchase without public local inquiry or hearing" ; and subsection (2) shall cease to have effect.

In section fifty-five, in paragraph (a), for the reference to paragraph 4 of the Fourth Schedule to the Land Drainage Act, 1930 there shall be substituted a reference to paragraph 3 of the First Schedule to this Act, and in paragraph (b), for the words "causing a public inquiry to be held" there shall be substituted the words "public local inquiry or hearing".

[*Applies to Scotland.*]

Enactment amended.

The Police Act, 1946.
(9 & 10 Geo. 6. c. 46.)

Amendments.

In section five, in subsection (3), after the words "Local Government Act, 1933," there shall be inserted the words "and the Acquisition of Land (Authorisation Procedure) Act, 1946."

In section fifteen, the words "by means of an order made by the council and confirmed" shall cease to have effect.

[*Fifth Schedule. Application to Scotland.*]

SIXTH SCHEDULE.

(Section 10.)

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
41 & 42 Vict. c. 8.	The Public Parks (Scotland) Act, 1878.	In section six, paragraphs (3) to (5) and the proviso; sections eight to eleven and the Schedule.
49 & 50 Vict. c. 22.	The Metropolitan Police Act, 1886.	In section four, subsections (1) to (10).
55 & 56 Vict. c. 43.	The Military Lands Act, 1892.	In section two, in paragraph (7), the words "or the council of a county or borough" and the words "or council", wherever they occur, and in paragraph (9) the words "or by a council of a county or borough"; in section eight, in subsection (3), the proviso. Sections sixty and two hundred and sixty-two.
55 & 56 Vict. c. 55.	The Burgh Police (Scotland) Act, 1892.	In section thirty-three, subsection (3).
57 & 58 Vict. c. 57.	The Diseases of Animals Act, 1894.	In section twenty-five, subsections (3) to (16).
57 & 58 Vict. c. 58.	The Local Government (Scotland) Act, 1894.	
60 & 61 Vict. c. 38.	The Public Health (Scotland) Act, 1897.	In section one hundred and forty-five, paragraphs (1) to (15).

Session and Chapter.	Short Title.	Extent of Repeal.
8 Edw. 7. c. 36.	The Small Holdings and Allotments Act, 1908.	In section twenty-five, subsection (2); in section forty-one, in subsection (1), the words from "or which at that date" to the end; in section forty-five, the words from "and the provisions" to the end.
9 & 10 Geo. 5. c. 83.	The Public Libraries Act, 1919.	In section six, the words from "in the same manner" to the end.
15 & 16 Geo. 5. c. 15.	The Housing (Scotland) Act, 1925.	In section fifty-one, in subsection (1), the proviso; sections eighty-six to eighty-nine so far as relating to the compulsory purchase of land for the purpose of Part III of the Act.
16 & 17 Geo. 5. c. 52.	The Small Holdings and Allotments Act, 1926.	In section seventeen, subsection (2).
20 & 21 Geo. 5. c. 40.	The Housing (Scotland) Act, 1930.	Section thirty-five; in the Second Schedule, in the Heading to Part I, the words from "and subject" to the end of the heading, and Part II.
20 & 21 Geo. 5. c. 50.	The Public Works Facilities Act, 1930.	The whole Act.
20 & 21 Geo. 5. c. 44.	The Land Drainage Act, 1930.	In section forty-five, in subsection (2), the words from "by means of" to the end, and in subsection (3), the words "or any order made thereunder", and the words from "or which is vested" to the end; the Fourth Schedule.
22 & 23 Geo. 5. c. 48.*	The Town and Country Planning Act, 1932.	In section twenty-five, subsections (3) and (6); in the First Schedule, Part III; and in the Third Schedule, in Part I, paragraphs 1, 3 (iv) and 4 to 6, and Part II except paragraphs 3 and 4.
22 & 23 Geo. 5. c. 49.	The Town and Country Planning (Scotland) Act, 1932.	In section twenty-five, subsections (3) and (6); in the First Schedule, Part III; and in the Third Schedule, in Part I, paragraphs 1 and 4 to 6, and Part II except paragraphs 3 and 4.

Session and Chapter.	Short Title.	Extent of Repeal.
25 & 26 Geo. 5. c. 41.	The Housing (Scotland) Act, 1935.	Section sixty-four ; in the Fifth Schedule, Part I so far as relating to Part II of the Second Schedule to the Housing (Scotland) Act, 1930.
25 & 26 Geo. 5. c. 47.	The Restriction of Ribbon Development Act, 1935.	In section thirteen, in subsection (1), the words from "and if they are unable" to the beginning of the proviso, and subsections (5) and (6) ; in section twenty-five, paragraphs (7) and (8).
26 Geo. 5. & 1 Edw. 8. c. 44.	The Air Navigation Act, 1936.	In section nine, in subsection (1), the words from "by means of" to "confirmed", and subsection (2) ; in section thirty-two, paragraphs (6) and (7) ; the First Schedule.
26 Geo. 5. & 1 Edw. 8. c. 50.	The Public Health (London) Act, 1936.	The Third Schedule.
26 Geo. 5. & 1 Edw. 8. c. 51.	The Housing Act, 1936.	In section seventy-four, subsection (4) ; section seventy-five.
1 Edw. 8. & 1 Geo. 6. c. 5.	The Trunk Roads Act, 1936.	In section twelve, subsection (19) ; in the Fourth Schedule, in paragraph 6, subparagraph (b).
1 Edw. 8. & 1 Geo. 6. c. 28.	The Harbours, Piers and Ferries (Scotland) Act, 1937.	In section two, subsection (3) ; the First Schedule.
1 & 2 Geo. 6. c. 72.	The Fire Brigades Act, 1938.	In section twenty-seven, subsection (3).
2 & 3 Geo. 6. c. 31.	The Civil Defence Act, 1939.	In section sixty-three, subsection (1). In section ninety-one, in subsection (22), the words "and to the Local Government Act, 1933" ; the word "respectively", and the words from "and to the enactments" to the end of the subsection.
2 & 3 Geo. 6. c. 40.	The London Government Act, 1939.	Sections one hundred and one to one hundred and five ; in section one hundred and fourteen, paragraphs (a) and (c) ; in section one hundred and eighty-eight, the proviso to subsection (1) ; and the Fourth Schedule.

Session and Chapter.	Short Title.	Extent of Repeal.
7 & 8 Geo. 6. c. 31.	The Education Act, 1944.	In section ninety, in subsection (1), the words from "and with respect to" to the beginning of the proviso.
7 & 8 Geo. 6. c. 47.	The Town and Country Planning Act, 1944.	In section fifty-three, in subsection (1), the words from the beginning to "but" in the proviso, and subsection (2).
8 & 9 Geo. 6. c. 33.	The Town and Country Planning (Scotland) Act, 1945.	In section fifty-one, in subsection (1), the words from the beginning to "but" in the proviso, and subsection (2).
8 & 9 Geo. 6. c. 37.	The Education (Scotland) Act, 1945.	The Fourth Schedule, so far as relating to section eleven of the Education (Scotland) Act, 1918.
8 & 9 Geo. 6. c. 43.	The Requisitioned Land and War Works Act, 1945.	In section twenty-six, in subsection (1), the words "by means of an order made by them and confirmed"; in section twenty-seven, subsection (2); in section sixty, subsection (10).
9 & 10 Geo. 6. c. 42.	The Water (Scotland) Act, 1946.	In section twenty, in subsection (4), the words "by means of a compulsory purchase order made by them and confirmed", and the words "under this section", and subsections (5) to (8); the Second Schedule. In the Fourth Schedule, in section 7, in subsection (1), the words "by means of a compulsory purchase order made by the undertakers and confirmed" and the words "order made".

The Compulsory Purchase of Land Regulations, 1946.

Dated April 18, 1946, made by the Minister of Health under the First Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946.

S. R. & O., 1946, No. 573.

The Minister of Health, in exercise of the powers conferred on him by the First Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

1. These Regulations may be cited as the Compulsory Purchase of Land Regulations, 1946.

2. The forms set out in the schedule hereto or forms substantially to the like effect shall be the forms to be used for the purpose of the First Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, in the cases to which those forms are applicable.

SCHEDULE.

FORM No. 1.

FORM OF COMPULSORY PURCHASE ORDER.

THE ¹ ACT, , AND
THE ACQUISITION OF LAND (AUTHORISATION PROCEDURE) ACT, 1946.

The
hereby make the following order :—

1. Subject to the provisions of this order the said

are hereby authorised to purchase compulsorily [on behalf of the parish council of

] for the purpose of

the land which is described in the schedule hereto and is delineated and coloured on a map marked and sealed with the seal of, and deposited at the offices of, the said ²

[2. For the purposes of this order section 133 of the Lands Clauses Consolidation Act, 1845, shall not be incorporated with the enactment under which the foregoing purchase is authorised.³]

[3. Section 77 of the Railways Clauses Consolidation Act, 1845 [and sections 78 to 85 of that Act as originally enacted and not as amended for certain purposes by section 15 of the Mines (Working Facilities and Support) Act, 1923], are hereby incorporated with the enactment under which the foregoing purchase is authorised, subject to the following modifications :—⁴]

4. This order may be cited as the ⁵
Compulsory Purchase Order, 19 .

THE SCHEDULE.

Number on Map (1)	Quantity, description and situation of the land (2)	Owners or Reputed Owners (3)	Lessees or Reputed Lessees (4)	Occupiers (other than tenants for a month or less period than a month) (5)

Note.—Cols. 3, 4 and 5 need not be completed in the case of any land in respect of which the confirming authority has dispensed with service on owners, lessees and occupiers under paragraph (3) (1) (b) of the first schedule to the Act of 1946.

Given under the seal of the
day of

in the year nineteen hundred and

DIRECTIONS FOR FILLING UP THIS FORM.

- ¹ Insert short title of Act authorising compulsory purchase.
- ² Insert name of authority making the order.
- ³ This provision should be omitted in the case of an order under Part V of the Housing Act, 1936, and is optional in other cases.
- ⁴ This paragraph may be omitted or may be inserted with or without the reference to sections 78 to 85.
- ⁵ Insert title of order.

FORM No. 2.

FORM OF ADVERTISEMENT OF THE MAKING OF A COMPULSORY PURCHASE ORDER.

THE ¹ ACT, , AND
THE ACQUISITION OF LAND (AUTHORISATION PROCEDURE) ACT, 1946.

Notice is hereby given that the
in exercise of the powers conferred on them by the above-mentioned Acts on the
day of , 19 , made
a compulsory purchase order entitled the
which is about to be submitted to the
for confirmation, authorising them to purchase compulsorily [on behalf of the parish
council of

] for the purpose of
the land described in the schedule hereto. A copy of
the order and of the map referred to therein have been deposited at

and may be seen there at all reasonable hours.

Any objection to the order must be made in writing and addressed to ²

before the ³ day of 19 , and should
state the grounds of objection.

Schedule.

[Here insert description of land comprised in the order.]

Dated the day of , 19 .

Signature of appropriate authorised
officer of authority making the order.

DIRECTIONS FOR FILLING UP THIS FORM.

- ¹ Insert short title of Act authorising compulsory purchase.
- ² Insert name and address of confirming authority.
- ³ Insert date at least 21 days from the first publication of the notice.

FORM No. 3.

FORM OF NOTICE TO OWNERS, LESSEES AND OCCUPIERS OF THE MAKING OF A COMPULSORY PURCHASE ORDER, OTHERWISE THAN ON BEHALF OF A PARISH COUNCIL.

THE ¹ ACT, , AND
THE ACQUISITION OF LAND (AUTHORISATION PROCEDURE) ACT, 1946.

Take notice that the
in exercise of the powers conferred on them by the above-mentioned Acts on the
day of , 19 , made a compulsory
purchase order entitled the
which is about to be submitted to the for con-
firmation, authorising them to purchase compulsorily for the purpose of
the land described in the schedule hereto.

The Compulsory Purchase of Land Regulations, 1946 703

A copy of the order and of the map referred to therein have been deposited at and may be seen there at all reasonable hours.

Any objection to the order must be made in writing and addressed to ²

before the ³ day of 19 , and should state the grounds of objection.

[⁴ If the order, having been made under Part V of the Housing Act, 1936, is submitted to the Minister of Health before the 3rd August, 1946, the Minister, under section 2 of the Housing (Temporary Provisions) Act, 1944, as amended by the Acquisition of Land (Authorisation Procedure) Act, 1946, may, after considering any objections, confirm the order (with or without modifications) without a public local inquiry or hearing.]

[⁵ If no objection is duly made by an owner, lessee or occupier, or if all objections so made are withdrawn, or if the confirming authority is satisfied that every objection duly made relates exclusively to matters which can be dealt with by the tribunal by whom the compensation is to be assessed, the confirming authority may, if it thinks fit, confirm the order with or without modifications. In any other case where an objection has been duly made by an owner, lessee or occupier (other than a tenant for a month or less) the confirming authority is required, before confirming the order, either to cause a public local inquiry to be held or to afford to the objector an opportunity of appearing before and being heard by a person appointed by the confirming authority for that purpose, and may then, after considering the objection and the report of the person who held the inquiry or the person appointed as aforesaid, confirm the order with or without modifications.]

Schedule.

(Here insert description of land comprised in the order.)

Dated the day of , 19 .

Signature of authorised officer
of authority making the order.

DIRECTIONS FOR FILLING UP THIS FORM.

- ¹ Insert short title of Act authorising compulsory purchase.
- ² Insert name and address of confirming authority.
- ³ Insert date at least 21 days from the service of the notice.
- ⁴ Omit if not applicable.
- ⁵ Omit if preceding paragraph is applicable.

FORM No. 4.

FORM OF NOTICE TO OWNERS, LESSEES AND OCCUPIERS OF THE MAKING OF A COMPULSORY PURCHASE ORDER ON BEHALF OF A PARISH COUNCIL.

The Local Government Act, 1933, and the Acquisition of Land (Authorisation Procedure) Act, 1946.

Take notice that the county council of in exercise of the powers conferred on them by the above-mentioned Acts, on the day of , 19 , made a compulsory purchase order which is about to be submitted to the Minister of Health for confirmation, authorising them to purchase compulsorily on behalf of the parish council of for the purpose of the land described in the schedule hereto.

A copy of the order and of the map referred to therein have been deposited at and may be seen there at all reasonable hours.

Any objection to the order must be made in writing and addressed to the Minister of Health before the ¹ day of , 19 .

If no objection is duly made by an owner, lessee or occupier, or if all objections so made are withdrawn, the Minister is required to confirm the order with or without modifications. In any other case where an objection has been duly made by an owner, lessee or occupier (other than a tenant for a month or less), the Minister is required, before confirming the order, either to cause a public local inquiry to be

held or to afford to the objector an opportunity of appearing before and being heard by a person appointed by the Minister for that purpose, and may then, after considering the objection and the report of the person who held the inquiry or the person appointed as aforesaid, confirm the order with or without modifications.

Schedule.

(Here insert description of land comprised in the order.)

Dated the _____ day of _____, 19 ____.

Signature of clerk of county council.

DIRECTIONS FOR FILLING UP THIS FORM.

¹ Insert date at least 21 days from the service of the notice.

FORM No. 5.

FORM OF NOTICE OF CONFIRMATION, OR MAKING BY ACQUIRING MINISTER,
OF COMPULSORY PURCHASE ORDER.

The ¹ _____ Act, _____, and
the *Acquisition of Land (Authorisation Procedure) Act, 1946.*

Notice is hereby given that

in exercise of the powers conferred on him by the
above-mentioned Acts on the _____ day of _____
19 __, [confirmed] [with modifications] [made] a compulsory purchase order entitled
the _____ [submitted to him by the
_____] [on behalf of the parish council of _____].

The order provides for the purchase for the purpose of
_____ of the land described in the schedule hereto.

A copy of the order as [confirmed] [made] by the Minister and of the map referred
to therein have been deposited at
and may be seen there at all reasonable hours.

[² The order becomes operative on the date of this advertisement, but if application
is made to the High Court within a period of six weeks from that date by an
aggrieved person desirous of questioning the validity of the order, the Court may,
by interim order, suspend the operation of the order either generally or as respects
any property of the applicant, and may, if satisfied that the order is invalid or that
the interests of the applicant have been substantially prejudiced by any requirement
of the Act or of any regulation made thereunder not having been complied with,
quash the order either generally or in so far as it affects any property of the
applicant.]

[The order, being subject to special parliamentary procedure, will become
operative as provided by the Statutory Orders (Special Procedure) Act, 1945.
Except in a case where the order is confirmed by an Act of Parliament under section 6
of that Act, if application is made to the High Court within a period of six weeks
from the date on which the order becomes operative as aforesaid by an aggrieved
person desirous of questioning the validity of the order, the Court may, by interim
order, suspend the operation of the order either generally or as respects any property
of the applicant, and may, if satisfied that the order is invalid or that the interests
of the applicant have been substantially prejudiced by any requirement of the Act
or of any regulation made thereunder not having been complied with, quash the
order either generally or in so far as it affects any property of the applicant.]

Schedule.

(Here insert description of land comprised in the order.)

Dated the _____ day of _____, 19 ____.

Signature of authorised officer
of authority making the order.

DIRECTIONS FOR FILLING UP THIS FORM.

¹ Insert short title of Act authorising compulsory purchase.

² This paragraph or the following one, whichever is appropriate, must be inserted.

The Compulsory Purchase of Land Regulations, 1946 705

FORM No. 6.

FORM OF ADVERTISEMENT OF GRANTING OF CERTIFICATE UNDER PART III OF FIRST SCHEDULE TO THE ACQUISITION OF LAND (AUTHORISATION PROCEDURE) ACT, 1946.

The Acquisition of Land (Authorisation Procedure) Act, 1946.

Whereas a compulsory purchase order entitled the
has been [made] [prepared in draft] by
in respect of the land described in the schedule hereto [and submitted to the
for confirmation.]

[¹ And whereas the said land includes land acquired by the
for the purposes of their
undertaking as respects which the Minister of
is satisfied that it is used, or an interest is held therein, for the purposes
of the carrying on of that undertaking :]

Notice is hereby given that the Minister of
in exercise of the powers conferred on him by paragraph [10] [11] [12] of Part III
of the First Schedule to the above-mentioned Act, has certified as respects the land
indicated in that connection in the schedule hereto that ²

A map showing the land proposed to be acquired, and the land to which the
certificate relates [and the land proposed to be given in exchange], may be inspected
at
at all reasonable hours.

The certificate becomes operative on the date of this advertisement, but if application is made to the High Court within a period of six weeks from that date by an aggrieved person desirous of questioning the validity of the certificate, the Court may, by interim order, suspend the operation of the certificate either generally or as respects any property of the applicant, and may, if satisfied that the interests of the applicant have been substantially prejudiced by any requirement of the Act or of any regulation made thereunder not having been complied with, quash the certificate either generally or in so far as it affects any property of the applicant.

Schedule.

(Here insert description of land comprised in the order, indicating the land to which the certificate relates and any land proposed to be given in exchange.)

Dated the _____ day of _____, 19 ____.

Signature of authorised officer of authority
making or preparing the order.

Given under the official seal of the Minister of Health this eighteenth day
of April, nineteen hundred and forty-six.

(L.S.)

F. L. Edwards,
Assistant Secretary, Ministry of Health.

DIRECTIONS FOR FILLING UP THIS FORM.

¹ Omit when the certificate is given under paragraph 11 or 12.

² Insert the terms of the certificate.

CIRCULAR 104.

To County Councils, County Borough Councils, Common Council of the City of London, Metropolitan Borough Councils, Borough Councils, Urban District Councils, Rural District Councils, Burial Boards, Joint Cemetery Boards, Joint Hospital Boards, Joint Sanatorium Boards, Joint Sewerage, &c., Boards, Joint Water Boards (including Metropolitan Water Board), Mental Hospital Boards, Visiting Committees of Mental Hospitals, Joint Boards for the Mentally Defective, Port Health Authorities, The Peterborough Joint Education Boards, The Receiver of the Metropolitan Police District.

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W.1.

24th May, 1946.

SIR,

REVISED PROCEDURE FOR THE COMPULSORY ACQUISITION
OF LAND BY LOCAL AUTHORITIES.

I am directed by the Minister of Health to draw your attention to the Acquisition of Land (Authorisation Procedure) Act, 1946, which as from 18th April, 1946, superseded various codes under which local authorities have hitherto sought authorisation to acquire land compulsorily.

A memorandum on the provisions of the Act and the new codes of procedure is enclosed.

As required by the Act, the Minister has made the Compulsory Purchase of Land Regulations, 1946 (S. R. & O., 1946 No. 573), prescribing the form of compulsory purchase order and other forms to be used in connection with the new compulsory purchase order procedure. A copy of these Regulations is enclosed for your information. Further copies can be obtained from His Majesty's Stationery Office, price 2d. net.

These forms supersede, so far as local authorities are concerned, certain forms prescribed for various purposes by existing regulations, e.g., the Public Works Facilities (Procedure, Ministry of Health) Order, 1930 (S. R. & O., 1930 No. 1057) the Local Government (Compulsory Purchase) Regulations, 1934 (S. R. & O. 1934 No. 363); the Housing Act (Form of Orders and Notices) Regulations, 1937 (S. R. & O., 1937 No. 78) (so far as purchases for the purposes of Part V of the Housing Act, 1936, are concerned); the Restriction of Ribbon Development (Compulsory Purchase) Regulations, 1936 (S. R. & O., 1936 No. 389); the Water (Compulsory Purchase) Regulations, 1945 (S. R. & O. 1945, No. 1244); the Education (Compulsory Purchase) Provisional Regulations, 1945.

It should be noted, however, that Paragraph 4 and Form No. 5 of the Local Government (Compulsory Purchase) Regulations, 1934 (which relate to the method of publishing a notice and to the form of notice in connection with a local inquiry held by a county council into a representation by a parish council under Section 168 of the Local Government Act, 1933, that they are unable to acquire land by agreement) remain in force. They are, for convenience, set out on the back of this circular.

I am, etc.

The Town Clerk.

The Clerk of the Council.

The Clerk of the Board.

The Clerk of the Visiting Committee.

The Clerk of the Health Port Authority.

The Receiver of the Metropolitan Police District.

Note.

Paragraph 4 of the Local Government (Compulsory Purchase) Regulations, 1934, provides that the notice to be published in a parish under Section 168 (2) of the Local Government Act, 1933, of a proposed inquiry into a representation by a parish council under that Section, shall be published by affixing a copy thereof on or near the principal door of each church or chapel in the parish.

Form No. 5 prescribed by the above Regulations is as follows :—

Form of Notice of a proposed inquiry by a County Council on a representation by a Parish Council that they are unable to acquire land by agreement.

Local Government Act, 1933.

To ¹ { owner
lessee
occupier

of ²

Take notice that the Parish Council of _____ have represented to the County Council of _____ that they are unable to purchase by agreement and on reasonable terms suitable land for ³ _____, being a purpose for which they are authorised to acquire land, and that they have requested the County Council to make an Order for the compulsory purchase of the land described in the Schedule hereto for the said purpose.

A map indicating the land intended to be purchased has been deposited at _____ and may be seen there at all reasonable hours.

The County Council have appointed a person to hold a local inquiry in the above matter. The inquiry will be held at _____ on _____ the _____ day of _____

_____ 19, at _____ a.m., and you have the right to attend the inquiry and to be heard thereat. It should be noted that the Local Government Act, 1933, provides that the person holding the inquiry shall not, unless the Minister of Health so directs, hear counsel or expert witnesses.

Schedule.

(Here insert description of lands proposed to be purchased.)

Dated this _____ day of _____, 19 _____.

Signature of Clerk of County Council.

DIRECTIONS FOR FILLING UP THIS FORM.

- ¹ Insert name of owner, lessee or occupier.
- ² Insert description of land proposed to be acquired.
- ³ Insert purpose for which the land is proposed to be acquired.

ENCLOSURE TO CIRCULAR 104.**Acquisition of Land (Authorisation Procedure) Act 1946.****Compulsory Acquisition of Land by Local Authorities.**

[This memorandum is not intended to do more than give a general indication of the provisions of the Act, and is not exhaustive. The terms of the Act itself should always be consulted.]

1. This Act, which came into force on 18th April, 1946, supersedes various codes of procedure laid down in existing public general Acts conferring powers of compulsory purchase on local authorities, whether by provisional order, compulsory purchase order or some other method. Where, however, action has been initiated under one of the existing codes before 18th April, 1946, it may be completed under that code.

2. The Memorandum following is divided up as follows :—

- | | | |
|--|--------|---------------------|
| A. Main objects of the Act | ... .. | paragraph 3 |
| B. Notes on various points arising under the new procedures : | | |
| (i) Compulsory purchase orders | ... .. | paragraphs 4 to 17 |
| (ii) Authorisations in writing | ... .. | paragraphs 18 to 25 |
| C. Notes on other matters : | | |
| (i) Closure of footpaths and bridleways | | paragraph 26 |
| (ii) Notification to the War Damage Commission | ... .. | paragraph 27 |
| (iii) Application of compulsory purchase order procedure to local Acts | ... .. | paragraph 28 |
| D. Brief summary of the various steps in the new codes of procedure : | | |
| (i) Compulsory purchase orders | ... .. | Appendix A |
| (ii) Authorisations in writing | ... .. | Appendix B |

A. Main objects of the Act.

3. The Act has two main objects :—

- (i) To replace in a permanent form the temporary powers in Section 2 of the Public Works Facilities Act, 1930, of which local authorities have made wide use, at the same time making this a uniform code replacing and embodying the best features of other existing codes for authorising the compulsory purchase of land by means of a compulsory purchase order. (Section 1.)
- (ii) To provide for a limited period an even speedier method (subject to certain safeguards) which can be used where it is urgently necessary in the public interest to obtain possession of land essential for some public purpose. (Section 2.)

*B. Notes on various points arising under the new procedures.**(i) Compulsory Purchase Orders.*

4. This procedure is now established by Parliament as the recognised code for the authorisation of compulsory purchase of land by local authorities wherever they possess statutory powers of compulsory purchase for statutory purposes and whatever method has been hitherto prescribed in the "parent Act."* The new code supersedes provisional order and compulsory purchase order codes in existing statutes, with the exception of the Light Railways Acts, 1896 and 1912, Part III of the Housing Act, 1936 (Clearance and Redevelopment Areas), and the Town and Country Planning Act, 1944 ("blitzed" and "blighted" areas and certain other planning purposes). The position under the Electricity (Supply) Acts is referred to in paragraph 7 below. The Fourth Schedule to the Act amends and repeals certain provisions in the "parent Acts" so as to assimilate the language and the provisions of those Acts to the scheme of the new procedure.

5. The Act confers no powers of compulsory purchase for purposes for which local authorities do not already possess such powers, but it removes a number of limitations in various codes of procedure on the acquisition of certain types of land, e.g., land belonging to other local authorities, statutory undertakers, etc. These are referred to again in paragraph 15 and Appendix A below. It is not possible in this memorandum to give a complete list of the modifications of detail in the various "parent Acts" affected by the Act. For the most part they are included in the Fourth and Sixth Schedules, which should be carefully examined.

* The term "parent Act" is used in the memorandum to refer to the enactment which confers the power of compulsory purchase for the purpose in question, e.g., section 159 of the Local Government Act, 1933, or section 306 of the Public Health Act, 1936.

6. The procedure set out in the Act applies wherever powers of compulsory acquisition are conferred on a local authority by any existing public general Act, except the enactment referred to in paragraph 4 above; the expression "local authority" is defined in Section 8; it includes precepting authorities like parish councils.

7. Electricity undertakers who are local authorities may now be authorised to purchase land compulsorily either by means of a compulsory purchase order under this Act, or by special order or provisional order under the Electricity (Supply) Acts, 1882-1936.

8. The new compulsory purchase order procedure is similar to the procedure under the Public Works Facilities Act, 1930, and under Section 161 of the Local Government Act, 1933, but there are a number of differences in detail. A brief summary of the various steps in the new procedure is given in Appendix A, but the full details of the procedure are set out in the First Schedule to the Act which should be consulted in all cases. The Minister of Health has made the Compulsory Purchase of Land Regulations, 1946 (S. R. & O., 1946, No. 573) prescribing the necessary forms and notices to be used in connection with the new procedure.

9. Below are given some comments on special points in the new compulsory purchase order code. It is expected that the changes in detail will reduce the time before an order can be confirmed, and will enable local authorities to obtain possession of the land more speedily when an order has been confirmed.

(a) "*Referencing*" and service of notices under the compulsory purchase order code.

10. Paragraph 3 (1) (b) of the First Schedule permits the confirming authority in cases of special difficulty to direct that the local authority need not serve individual notices before submitting the order to the confirming authority. In such a case they must instead post up on the land a composite notice in accordance with paragraph 3 (1) (c) addressed to "the owners and any occupiers".

11. Directions under this head will not be given except on strong grounds. The power is not intended to relieve the local authority of the responsibility of making reasonable inquiries to obtain the particulars required in a straightforward case. But the discretion may be particularly valuable—

(i) where the land is in multiple ownership and protracted inquiries would be necessary to obtain full particulars of all the owners, lessees and occupiers with a legal interest in the land;

(ii) where the land has been damaged by enemy action and boundaries are obliterated;

although it must not be assumed that a direction will be automatically given in every case of this kind. It should be noticed that the direction may relieve the authority of the liability to serve notices in the case of certain categories of persons only—e.g., in respect of lessees, leaving them to serve individual notices on owners and occupiers.

12. The wording at the beginning of paragraph 19 (4) of the First Schedule should be noted. This should avoid the uncertainty as to what constitutes "reasonable inquiry", which in the past has sometimes led authorities to undertake unnecessarily protracted inquiries before adopting the alternative method of service of notices described in the paragraph.

(b) *Informal hearings.*

13. An innovation into established compulsory purchase order procedure for most purposes is the alternative given by paragraph 4 of the First Schedule to the confirming authority of having an informal hearing of an objector and of the representatives of the acquiring authority instead of holding a formal public local inquiry.

(c) Operation of the order, quick entry, etc.

14. The order becomes operative, except where it is subject to "special parliamentary procedure,"* on the date on which the advertisement that the order has been confirmed is first published in the local press. It is then open to the local authority to serve notice to treat, and they can then take possession at any time of any portions of the land in respect of which notice to treat has been served by giving 14 days' notice. It should be noted that if "referencing" has been dispensed with at the beginning of the procedure it will nevertheless have to be done in order to serve notice to treat.

(d) Special categories of land.

15. The responsibility for ascertaining that the particular piece of land does not fall within one of the categories mentioned in Section 1 (2) rests primarily on the local authority. These categories are:—

(i) land which is the property of a local authority, as defined in Section 8, or of statutory undertakers, or is held inalienably by the National Trust;

(ii) land forming part of a common, open space, or fuel or field garden allotment; or

(iii) land which is, or is the site of, an ancient monument or other object of archaeological interest.

It will be appreciated that "special parliamentary procedure" may be necessary in such cases before the order can become operative. Referencing will usually disclose whether another local authority or statutory undertakers or the National Trust have an interest in the land, and whether it is an open space or a common or fuel or field garden allotment, but it may not be obvious whether the land is, or is the site of, an ancient monument or other object of archaeological interest. Local authorities are strongly advised to approach the Chief Inspector of Ancient Monuments, Ministry of Works, 76-78, Onslow Gardens, London, S.W. 7, at an early stage and to furnish him with particulars sufficient to identify the site, so that he can inform the authority whether or not in his opinion the land is likely to fall within this category. This reference will not delay proceedings; it is similar to a scrutiny that has been exercised by the Ancient Monuments Division of the Ministry of Works throughout the war period in respect of requisitioning of land by the Service Departments, and need not hold up the submission of the order to the confirming authority.

(e) Incorporation of the Lands Clauses Acts, etc.

16. It will be seen that the new prescribed form of compulsory purchase order does not incorporate the Lands Clauses Acts in the order, as has been usual. This is not necessary, as the Second Schedule to the Act incorporates them with the "parent Act". The compulsory purchase order need refer only to those enactments the incorporation of which is optional.

(f) Basis of compensation.

17. The Act does not affect in any way the provisions of Part II of the Town and Country Planning Act, 1944, as regards the basis of compensation in the case of compulsory purchase of land.

(ii) Authorisations in Writing.

18. The other method, a temporary quick procedure, is available to local authorities, broadly speaking, for all the purposes for which they can be authorised to acquire land compulsorily by compulsory purchase order under Section 1 and the First Schedule to the Act, or under the Town and Country Planning Act, 1944.

* "Special parliamentary procedure" is referred to below in Appendix A.

19. This quick procedure (which is set out in Section 2 and the Third Schedule to the Act and is summarised in Appendix B to this memorandum) is similar to that which was available up to the end of December, 1945, for the acquisition of sites for temporary houses (Housing (Temporary Accommodation) Act, 1944), and it resembles procedure which was available to local authorities at the end of the 1914-18 War for acquiring land for the construction of arterial roads under the Unemployment (Relief Works) Act, 1920.

(a) Conditions to be satisfied.

20. It is essential to realise that the quick procedure is intended to be exceptional and is not to be regarded as a short cut in all circumstances where the question of compulsory acquisition arises. An application under Section 2 can only be entertained by the appropriate Minister when two conditions have been satisfied—

(a) that it is expedient that the acquiring authority should purchase the land for the particular purpose in view ; and

(b) that it is urgently necessary in the public interest that they should be able to obtain possession of the land without delay.

21. These conditions are important and will be applied strictly by the Ministers concerned. It must be emphasised that before the former condition can be satisfied it must be clear that the use to which the land is to be put satisfies planning and agricultural considerations, and that the criterion in the second condition is not the need to purchase the land but the urgency, in the public interest, that *possession* without delay should be obtained. It will be appreciated that this second condition may be difficult to satisfy, and if there is any doubt about it the procedure by compulsory purchase order under Section 1 should be preferred.

(b) Duration of the powers.

22. The quick procedure will be available for a period of five years only, unless extended by Order in Council on an Address from each House of Parliament. This period has been chosen so as to accord with the Government's reconstruction proposals.

(c) Where the quick procedure cannot be used.

23. The quick procedure is not available in respect of the following categories of property :—

(i) dwelling-houses as defined in paragraph 1 (2) of the Third Schedule ;

(ii) the property of a local authority, or of statutory undertakers or land held inalienably by the National Trust ;

(iii) land being part of a common, open space or fuel or field garden allotment ;

(iv) land which is, or forms the site of, an ancient monument or other object of archaeological interest. (The Chief Inspector of Ancient Monuments of the Ministry of Works will advise whether in his view a piece of land is likely to fall into this last category—see paragraph 15 above.)

(d) Incorporation of the Lands Clauses Acts, etc.

24. The incorporation of the Lands Clauses Acts is provided for by Section 2 (4), which attracts the automatic incorporation effected by the Second Schedule with the "parent Act". The confirming authority's authorisation in writing will, however, have to provide for the incorporation or exclusion of any optional provisions, in much the same way as in a compulsory purchase order. Part IV of the Second Schedule enables this to be done.

(e) Service of notices.

25. It will be appreciated that a sense of grievance can easily be aroused by a high-handed use of the alternative method of serving notices provided for in paragraph 2 (2) (b) and (c) of the Third Schedule. The Minister is sure that local authorities will maintain their sense of responsibility in this matter and will make a real effort to use the method set out in paragraph 2 (2) (a) unless this involves unjustifiable delay. When serving a notice in accordance with paragraph 2 (2) (b) on a person on the premises, the authority should do their best to ensure that such a person can reasonably be regarded as a responsible agent for the owner or occupier and is not merely a casual visitor to the premises. It is, moreover, hoped that where the owner of the land is known to be abroad, authorities will take whatever steps are practicable to ensure that he is made aware of the authority's intentions.

*C. Other matters dealt with by the Act.**(i) Closure of footpaths and bridleways (Section 3).*

26. Section 3, which is of general application, provides a less cumbrous procedure than that of the Highway Act, 1835, for extinguishing (if necessary, after the provision of a suitable alternative) public rights of way over certain footpaths and bridleways, for use where the presence of such a right of way hinders the proper use of the land in question for the purpose for which it is bought. The procedure is by means of an order made by the Minister of Town and Country Planning and resembles that under Section 46 of the Housing Act, 1936, and Section 23 of the Town and Country Planning Act, 1944. The procedure applies not only to land acquired compulsorily under the procedure in the Act of 1946, but also to land purchased by agreement for a purpose for which the compulsory powers of the Act could have been used.

(ii) Notification of purchases of war damaged land to War Damage Commission (Section 4).

27. This provision also is of general application, and is based on Section 53 of the Town and Country Planning Act, 1944, repealed by subsection (5) except for a special provision to meet the special circumstances of the Act of 1944. It requires the War Damage Commission to be notified of the compulsory purchase under any enactment, whether public, general or local, existing or future, of any interest in land which has sustained war damage which has not been made good at the time of purchase. The effect of compulsory purchase is, in general, to turn a cost of works payment into a value payment, and it is essential that the War Damage Commission should be notified. Subsections (1) and (2) set out various actions of which the War Damage Commission must be notified as above; these are:—

- (1) Service of a notice to treat;
- (2) Any other action (e.g., entering and taking possession within three months of the giving of an authorisation in writing under the quick procedure of Section 2) by virtue of which compulsory purchase becomes obligatory.
- (3) The withdrawal of a notice to treat (e.g., under the powers of Section 5 of the Acquisition of Land (Assessment of Compensation) Act, 1919).
- (4) Entering into an agreement to purchase an interest in land which the persons concerned have been authorised to purchase compulsorily.

(iii) Application of compulsory purchase order procedure to local Acts (Section 7).

28. A number of local authorities have local Acts which confer on them powers of compulsory purchase of land not specified in the local Act for purposes set out in the local Act. In some cases these local Acts provide for

the use of the procedure in one of the public general Acts which has been repealed by the new Act (e.g., the Public Works Facilities Act, 1930). Section 7 enables such local authorities to apply to the Minister of Health for an order enabling them to use the new uniform compulsory purchase order procedure in Section 1 and the First Schedule to the Act in such cases, and to make consequential amendments in the wording of the local Act similar to those made by the Fourth Schedule to the Act in a "parent Act" which is a public general Act. It will be seen that orders of this kind may be made by simple order of the Minister within two years of the commencement of the Act.

Ministry of Health,
April, 1946.

APPENDIX A

SUMMARY OF COMPULSORY PURCHASE ORDER PROCEDURE.

*(Section 1 and First Schedule to the Act) **

1. Preliminary steps.

(a) Ascertain if there are likely to be planning or agricultural objections to the use of the particular piece of land for the purpose in view.

Local authorities are advised to consult the Chief Inspector of Ancient Monuments of the Ministry of Works at this stage, giving sufficient details (plan, map reference, etc.) for the latter to identify the site and inform them if the special procedure in paragraph 12 of the First Schedule applies—see paragraph 15 of the memorandum above.

(b) Institute the inquiries necessary to prepare the book of reference of owners, lessees and occupiers, and approach the confirming authority, where necessary, for a dispensation in suitable cases—see paragraphs 10 and 11 of the memorandum above.

(c) Publish a local press advertisement in two successive weeks (paragraph 3 (1) (a) of the First Schedule). The appropriate form is Form No. 2.

(d) Serve individual notices on owners, lessees and occupiers (paragraph 3 (1) (b) of the First Schedule). The appropriate form is Form No. 3. 21 days are given for the lodging of objections.

The method of service of notices where a dispensation has not been given is set out in paragraph 19 of the First Schedule.

Where the confirming authority has directed that in a particular case individual notices need not be served (so as to postpone "referencing") composite notices addressed to "the owners and any occupiers" must be posted up on the land (paragraph 3 (1) (c) of the First Schedule). Form No. 3 is the appropriate form.

2. Submission of the order.

The order must follow Form No. 1. The map should contain sufficient surrounding topographical detail to enable the site to be readily identified.

* Note:

1. This summary does not refer to the use of compulsory powers of acquisition by a county council on behalf of a parish council. In such cases, by section 168 of the Local Government Act, 1933, there must be a preliminary investigation by the county council before the confirming authority is approached. It should be noted in connection with preliminaries of this kind that paragraph 4 and Form No. 5 of the Local Government (Compulsory Purchase) Regulations, 1934 (S. R. & O., 1934, No. 363), remain in force.

2. This summary is not intended to cover all possible circumstances. The actual text of the Act should be referred to in all cases.

3. The forms referred to in the summary are prescribed in the Compulsory Purchase of Land Regulations, 1946 (S. R. & O., 1946, No. 573), obtainable from H.M. Stationery Office, price 2d. net.

Similarly the description of the land in column (2) of the schedule to the order should, wherever possible, give an indication of the location even where the Ordnance Survey map reference number is given in that column.

The acquiring authority should state fully their reasons for the purchase of the land included in the order, and consideration of the order will be much expedited if the appropriate documents and information accompany their application. The usual requirements for orders submitted to the Minister of Health are :—

- (1) A copy of the acquiring authority's resolution applying for confirmation of the order.
- (2) The sealed and signed order with the sealed or certified map.
- (3) One additional copy of the order and two additional copies of the map.
- (4) Copies of the successive newspapers containing the advertisement of the making of the order.
- (5) A copy of the notice served on the owners, lessees and occupiers.
- (6) A certificate of service of the notices stating the date and method of service, or of affixing on the premises or land if that has been approved by the confirming authority.
- (7) A statement that the order and map have been duly deposited.
- (8) A statement whether the land, either in whole or in part, falls within one of the special categories referred to in Section 1 (2) of the Act.
- (9) The District Valuer's report as soon as available. In appropriate cases he will consult the Mineral Valuer.
- (10) Confirmation that the planning authority (and, in the case of housing land, the Regional Planning Officer of the Ministry of Town and Country Planning) see no objection to the use of the land for the purpose proposed.

The submission of these documents should not be delayed until the period for the receipt of objections has expired ; they should be forwarded as soon as the notices and advertisement have been issued.

3. *Consideration of proposal and objections by the confirming authority.*

This part of the procedure is along familiar lines except that the confirming authority may hold a hearing instead of the formal public local inquiry. The confirming authority is not limited to ordering a public local inquiry or a hearing in cases of objections from owners, lessees or occupiers, but may decide to hold one or other if objections from other parties are received, or even if none is received. (An inquiry or hearing is not compulsory in housing cases to which Section 2 of the Housing (Temporary Provisions) Act, 1944, applies. This Section expires in August, 1946).

4. *Confirmation of the order.*

If the confirming authority confirms the order, with or without modifications, the local authority must, as soon as possible, publish in the local press a notice that the order has been confirmed, and serve a like notice and a copy of the order as confirmed on any person on whom notices were required to be served under paragraph 3 of the First Schedule (paragraph 6 of the First Schedule). Form No. 5 is the appropriate form for both notices.

5. *Operation and validity.*

The compulsory purchase order comes into operation normally on the day on which the above press advertisement first appears (paragraph 16 of the First Schedule). If, however, the order is one which requires confirmation by Parliament under "special parliamentary procedure" the time at which it comes into operation is determined by the Statutory Orders (Special Procedure) Act, 1945 (paragraph 17 of the First Schedule).

The validity of the order can be questioned in the High Court during a period of six weeks from the day on which it comes into operation on the

ground that it is *ultra vires*, or that the procedure has been faulty (paragraphs 15 to 17 of the First Schedule) except in a case, which is expected to be very exceptional, where the order has been confirmed by an Act of Parliament under Section 6 of the Statutory Orders (Special Procedure) Act, 1945.

6. *Notice to treat and taking possession.*

Notice to treat under Section 18 of the Lands Clauses Consolidation Act, 1845, may not, of course, be served until after the order comes into operation. At any time after it has been served the authority may enter and take possession on giving 14 days' notice of their intention to do so (paragraph 3 of the Second Schedule), without waiting for completion of purchase or complying with Section 84, etc., of the Act of 1845. The acquiring authority have the right to withdraw notice to treat in the circumstances referred to in Section 5 (2) of the Acquisition of Land (Assessment of Compensation) Act, 1919. If the notice to treat is not served within the period referred to in Section 123 of the Act of 1845, the compulsory powers lapse.

Special procedure in addition to the above in the case of certain categories of land.

(1) *Land belonging to statutory undertakers, whether local authorities or not.*

A compulsory purchase order relating to such land can be confirmed only if certain conditions are satisfied (paragraph 10 of the First Schedule). If the undertakers make representations to the appropriate Minister within the period allowed for objections and satisfy him that the land is used, or some interest in it is held, for the purpose of *carrying on* the undertaking (i.e., that it is "operational land") an order cannot be confirmed unless the appropriate Minister certifies that he is satisfied that the nature and situation of the land are such that if it is purchased without being replaced there will be no serious detriment to the *carrying on* of the undertaking, or that it can be replaced by other land belonging to, or available for acquisition by, the undertakers without serious detriment. The term "appropriate Minister" is defined in Section 8. Where, however, the appropriate Minister gives a certificate, and the undertakers still do not withdraw their objection, the order is, after confirmation, subject to "special parliamentary procedure"—see next heading.

(2) *Land which is the property of a local authority or of statutory undertakers or is held inalienably by the National Trust (paragraph 9 of the First Schedule).*

Where the local authority, or the statutory undertakers, or the National Trust have not withdrawn their objections, the order must after confirmation by the confirming authority be submitted to Parliament for approval in accordance with "special parliamentary procedure" under the Statutory Orders (Special Procedure) Act, 1945.

The compulsory purchase order is laid before Parliament by the confirming Minister who has to give notice of this at least 3 days previously in the London Gazette. Fourteen days are allowed for petitions, the Lord Chairman of Committees and the Chairman of Ways and Means reporting to the House of Lords and the House of Commons, respectively, whether or not there are petitions. Within fourteen days of the report of the Chairmen, either House may pass a resolution for the annulment of the order. If no resolution for annulment is passed, petitions for amendment are referred to a Joint Committee of both Houses and are investigated in much the same way as petitions against a private Bill. A petition of general objection to the order may, however, only be referred to the Joint Committee if Parliament orders it. If no petition is lodged and no annulment resolution is passed, the order becomes operative at the end of the second period of fourteen days, unless some later date is specified in the order. Where the order has been referred to a joint Committee of both Houses the operation of the order is determined in accordance with Section 6 of the Statutory Orders (Special Procedure) Act, 1945.

- (3) *Land forming part of a common, open space, or fuel or field garden allotment (paragraph 11 of the First Schedule).*

In this case the order is subject to "special parliamentary procedure" as in the case of local authorities' land, unless the Minister of Agriculture and Fisheries in the case of a common or fuel or field garden allotment, or the Minister of Town and Country Planning in the case of an open space, certifies that he is satisfied that land is to be given in exchange, not being less in area and equally advantageous to persons possessing common or other rights and to the public, or that the land is required for widening an existing highway and the giving of land in exchange is unnecessary.

The Minister of Agriculture and Fisheries or the Minister of Town and Country Planning, as the case may be, has to advertise his intention of giving a certificate and afford opportunity for objection, holding a public local inquiry if he thinks fit, before giving a certificate.

- (4) *Land which is, or is the site of, an ancient monument or other object of archaeological interest (paragraph 12 of the First Schedule).*

In this case the order is subject to "special parliamentary procedure" unless the Minister of Works certifies that the acquiring authority has undertaken to observe suitable conditions as to the use of the land.

Where a Minister has to give any certificate in accordance with this procedure the local authority promoting the compulsory purchase order must publish a notice that the certificate has been given in a local newspaper (paragraph 13 of the First Schedule). The validity of the certificate can be challenged in the High Court during a period of six weeks from the publication of this notice (paragraphs 15 to 17 of the First Schedule).

APPENDIX B.

SUMMARY OF PROCEDURE BY AUTHORISATION IN WRITING.

*(Section 2 and Third Schedule to the Act.) **

1. *Preliminaries.*—The local authority should ensure that the proposal complies with planning and agricultural considerations and that the land in question does not fall into one of the excluded categories (paragraph 1 of the Third Schedule). These are set out in paragraph 23 of the memorandum.

2. *Application.*—The local authority applies to the confirming authority for an authorisation in writing to purchase the land compulsorily. In order that no time may be lost, the acquiring authority when applying for authorisation should state fully their reasons why it is (a) expedient that they should purchase the land for the purpose proposed, and (b) urgently necessary in the public interest that they should be enabled to obtain possession of the land without delay, and also forward the appropriate documents and information. The usual requirements where applications are in respect of purposes for which the Minister of Health is the confirming authority are:—

- (1) A copy of the resolution applying for authorisation to purchase the land compulsorily.
- (2) Three copies of the map showing the land to which the application relates; one should be sealed or certified.
- (3) A copy of the newspaper containing the press advertisement.
- (4) A copy of the notices served on the owners and occupiers.
- (5) A certificate of service of the notices stating the date of service and that they have been served in accordance with the provisions of paragraph 2 (2) of the Third Schedule to the Act.
- (6) A statement that the map has been duly deposited.

* See notes 1 and 2 to Appendix A above.

(7) A certificate that the land does not, either in whole or in part, fall within one of the special categories referred to in Section 1 (2) of the Act, or include any dwelling house within the meaning of paragraph 1 (2) of the Third Schedule.

(8) The District Valuer's report, as soon as available. In appropriate cases he will consult the Mineral Valuer.

(9) Confirmation that the planning authority (and, in the case of housing land, the Regional Planning Officer of the Ministry of Town and Country Planning) see no objection to the use of the site for the purpose proposed.

(10) If it is desired that Section 133 of the Lands Clauses Consolidation Act, 1845, should be excluded from incorporation, or if it is desired that Section 77 and/or Sections 78 to 85 of the Railways Clauses Consolidation Act, 1845, should be incorporated with the "parent Act," this should be stated. (In the case of purchases for the purposes of Part V of the Housing Act, 1936, however, Section 133 of the former Act is automatically excluded by the Second Schedule to the Act of 1946, and unless the local authority otherwise wishes, provision will be made by the Minister of Health in the authorisation for the incorporation of Sections 77 to 85 of the Railways Clauses Consolidation Act, 1845.)

The submission of these documents should not be delayed until the period for making representations has expired; they should be forwarded as soon as the notices and advertisement have been issued. It is important that the District Valuer should be informed as early as possible that the authority are proposing to apply for an authorisation and asked to furnish his report. If the District Valuer's report is not to hand by the time the authority is ready to forward the remaining documents, these should be forwarded to the confirming authority with a statement obtained from the District Valuer (whom the authority should consult) as to when his report will be ready.

3. *Advertisement and service of notices.*—At the time they apply, they must publish in the local press and serve on owners and occupiers of the land concerned a notice that the application is about to be considered by the confirming authority and that representations may be made to the confirming authority within 14 days (paragraphs 2 (1) (a) and (b) of the Third Schedule). A suggested form of notice suitable for insertion in the press and for service on owners and occupiers is set out below.

4. Notice on owners, etc., may be served in the usual way by delivery or by registered post (paragraph 2 (2) (a) of the Third Schedule). As an alternative, (a) where premises appear to be separately occupied it may be served by addressing it to "the owner and the occupier" and delivering it to someone on the premises, or if no one is on the premises, by posting it up on the premises; (b) in the case of land which appears to be unoccupied, a composite notice addressed to "the owners and any occupiers" can be served by posting it up on the land (paragraphs 2 (2) (b) and (c) of the Third Schedule).

5. *Consideration of application and objections.*—A public local inquiry or hearing is not compulsory, though either can be held at the discretion of the confirming authority.

6. *Entry and taking possession.*—The local authority may enter on, take possession of, and use, the land after an interval of seven days from the giving of the authorisation in writing, but if they do not enter within three months the powers lapse (Section 2 (3)).

7. *Notice to treat and completion of purchase.* The acquiring authority serve notices to treat under the Lands Clauses Consolidation Act, 1845, and complete the purchase of the land after they are in possession, and must proceed to the completion of the purchase (Section 2 (4)).

8. The authorisation is open to challenge in the Courts at any time.

Suggested Press Advertisement and Form of Notice to Owners and Occupiers.

*The Act, and the Acquisition of Land
(Authorisation Procedure) Act, 1946.*

[To :—¹ (a) The owner or occupier (by name)
(b) The owner and the occupier
(c) The owners and any occupiers

Of :—²

Take notice] [Notice is hereby given]³ that the
(hereinafter referred to as "the acquiring authority") having made applica-
tion to the , the is about to take into
consideration the giving of an authorisation under Section 2 of the Acquisition
of Land (Authorisation Procedure) Act, 1946, to the said acquiring authority
to purchase compulsorily the lands described in the Schedule hereto for the
purpose of , which lands are delineated and shown coloured

on a map marked and sealed with the seal
of the acquiring authority and deposited at the offices of the acquiring
authority where it may be seen at all reasonable hours. [A copy of the said
map is attached hereto].⁴

Any representations regarding the proposed authorisation must be made
in writing and addressed to the⁵ within
fourteen days from the date of [service] [publication] of this notice.

Schedule.

(Here insert description of the land.)

Dated this

day of 19 .

Signature of Authorised Officer of the Acquiring Authority.

NOTE.⁶

Section 2 of the Acquisition of Land (Authorisation Procedure) Act, 1946, provides that at any time not earlier than seven days nor later than three months after the giving of an authorisation under that Section, the acquiring authority may enter on, and take possession of, the land to which the authorisation relates, notwithstanding that the purchase of the land has not been completed; further, that where an acquiring authority has taken possession of land pursuant to an authorisation under that Section it shall have power to purchase the land compulsorily as if authorised so to do under [Section 1 of that Act] [the Town and Country Planning Act, 1944] and in accordance with the provisions of that [Section] [Act]; and the authority shall as soon as may be after taking possession of the land serve notice under Section 18 of the Lands Clauses Consolidation Act, 1845, of its intention to take the land and shall in all respects be liable as if such notice had been given on the date of entering on the land, except that the power conferred by subsection (2) of Section 5 of the Acquisition of Land (Assessment of Compensation) Act, 1919, to withdraw such a notice shall not be exercisable.

It is desirable that any representations should set out in full the grounds upon which they are made.

Notes on the Form.

¹ (a) Under paragraph 2 (2) (a) of the Third Schedule to the Act of 1946, the notice should be addressed to the owner or occupier of any of the land in question by name.

(b) Under paragraph 2 (2) (b) of the said Third Schedule, where any premises appear to be separately occupied the notice should be addressed to "the owner and the occupier" of the premises.

(c) Under paragraph 2 (2) (c) of the said Third Schedule, where land appears to be unoccupied the notice should be addressed to "the owners and any occupiers" of the land.

² Insert description of the land in respect of which the notice is served.

³ This form of words is appropriate to the press advertisement. The address should then be omitted.

⁴ Strike out where inapplicable. A copy of the map should be attached to the notice in all cases of service under paragraph 2 (2) (b) or (c) of the said Third Schedule where the notice is required to be posted up on the premises or on the land.

⁵ Insert name and address of confirming authority.

⁶ The note may be omitted in the press advertisement.

PART 2

COMPENSATION

SUMMARY

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THE ACQUISITION OF LAND (ASSESSMENT OF COMPEN- SATION) ACT, 1919

[9 & 10 Geo. 5. Ch. 57.]

An Act to amend the law as to the assessment of Compensation in respect of Land acquired compulsorily for public purposes and the costs in proceedings thereon.

[19th August, 1919.]

GENERAL NOTE

Procedure for the Assessment of Compensation for Land acquired compulsorily under the Housing Acts.

For the circumstances in which land may be acquired compulsorily for housing, see Introduction, Chapter 2, p. 22, *ante*. For a summary of the provisions relating to compensation, see Introduction, p. 24, *ante*.

Authority to purchase compulsorily.—Authority to purchase land compulsorily for housing purposes is obtained by means of a compulsory purchase order made in the case of an acquisition under Part III of the Housing Act, 1936, in accordance with the provisions of the First Schedule to that Act, p. 321, *ante*; and in the case of an acquisition for the purposes of Part V, in accordance with the provisions of the First Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, p. 671, *ante*. In appropriate circumstances authority may be obtained by an authorisation given under s. 2 of the 1946 Act, p. 657, *ante*, in accordance with the provisions of the Second Schedule to that Act, p. 680, *ante*.

Notice to treat.—Having obtained the necessary authority to purchase the land compulsorily, the next step (after serving and publishing notice of the compulsory purchase order is to serve notice to treat (s. 18 of the Lands Clauses Consolidation Act, 1845, p. 797, *post*)). Where the acquisition is authorised under s. 2 of the Acquisition of Land (Authorisation Procedure) Act, 1946, p. 657, *ante*, the local authority may enter and take possession after seven days after the granting of the authorisation and shall be liable as if notice had been served on the date of entry.

By the said s. 18, it is provided that the notice to treat shall

- (1) give notice to the parties concerned that the local authority are authorised and require to purchase the lands,
- (2) state particulars of the lands,
- (3) demand from the parties concerned particulars of their estate or interest in such lands.
- (4) state that the local authority are willing to treat for the purchase thereof.

Mention should be made of the fact that failing agreement as to the purchase price, compensation will be paid in accordance with the appropriate provisions of the Housing Act, 1936; and in the case of a notice to treat served on or before the 17th November, 1949, the provisions of Part II of the Town and Country Planning Act, 1944, p. 737, *post*.

The notice to treat must be for the whole estate or interest of the parties interested in the lands (*In re Chilworth Gunpowder Co. and Manchester Ship Canal Co.* (1891), 8 T. L. R. 79; 11 Digest 174, 515). In the case of purchases under Part I of the Town and Country Planning Act, 1944, it is specifically provided in para. 3 of the Fifth Schedule to that Act (Hill's Town and Country Planning, 3rd Edition, p. 364), notwithstanding s. 18 of the Lands Clauses Consolidation Act, 1845, that one or some of two or more interests may be purchased without purchasing the other or others of them.

Parties on whom notice to treat must be served.—The notice must be served on "all the parties interested in such lands," *i.e.* all persons having freehold or leasehold interests in the lands, a person having an estate by way of mortgage (*Cooke v. L.C.C.*, [1911] 1 Ch. 604; 11 Digest 173, 503), and the grantee of an annuity arising out of the land (*University Life Assurance Society v. Metropolitan Railway*, [1866] W. N. 167). A notice to treat need not be served on a tenant whose interest in the premises is less than as a tenant for a year or from year to year (*Syers v. Metropolitan Board of Works* (1877), 36 L. T. 277; 11 Digest 173, 502; *R. v. Kennedy*, [1893] 1 Q. B. 533). As to the compensation of such tenants, see s. 121 of the Lands Clauses Consolidation Act, 1845, p. 821, *post*. Every person on whom a notice to treat is served is entitled to have compensation for his interest assessed separately (*Fotherby v. Metropolitan Rail. Co.* (1866), L. R. 2 C. P. 188; 11 Digest 206, 856; *Abrahams v. London Corporation* (1868), L. R. 6 Eq. 625; 11 Digest 297, 2291). Note the provisions contained in s. 46 of the Housing Act, 1936, p. 147, *ante*, relating to the extinguishment of easements where land is acquired under Part III of that Act.

Method of service.—The notice must be served upon the parties interested in or entitled to sell the lands. The provisions of s. 167 of the Housing Act, 1936, p. 293, *ante*, and para. 19 of the First Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, p. 679, *ante*, would now appear to be applicable to notices to treat served in connection with the Housing Acts: see Housing Act, 1936, First Schedule, para. 7, Acquisition of Land (Authorisation Procedure) Act, 1946, Second Schedule, para. 6.

Time within which notice must be served.—The powers of compulsory purchase cannot be exercised after the expiration of three years from the date of the compulsory purchase order: see s. 123 of the Lands Clauses Consolidation Act, 1845, p. 822, *post*. In the case of an authorisation under s. 2 of the (Acquisition of Land (Authorisation Procedure) Act, 1946, the powers must be exercised within three months; see s. 2 (3) of that Act, p. 658, *ante*. Service of a notice to treat within the period is a sufficient exercise of the compulsory powers to comply with this restriction as to time (*Salisbury, Marquis of v. Great Northern Rail. Co.* (1852), 17 Q. B. 840; 11 Digest 219, 1039; *Tiverton and North Devon Rail. Co. v. Loosemore* (1884), 9 App. Cas. 480, at p. 493; 11 Digest 219, 1035). The notice may be given as late as the day before the compulsory powers expire; see *Kemp v. S.E. Railway* (1872), 7 Ch. App. 364; 11 Digest 115, 93. In calculating the period, the day on which the compulsory purchase order was confirmed is excluded (*Seymour v. London and South-Western Rail. Co.* (1859), 5 Jur. (N.S.) 753; 42 Digest 650, 576).

After notice to treat, an owner cannot deal with his property so as to cast any additional expense on the local authority (*In re Marylebone (Stingo Lane) Improvement Act* (1871), L. R. 12 Eq. 389; *Metropolitan Rail. Co. v. Woodhouse* (1865), 34 L. J. (Ch.) 297) and see also the express provisions contained in paragraph 2 (b), First Schedule to the Housing Act, 1936, p. 321, *ante*, and in Part III of the Second Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, p. 683, *ante*. Compensation is usually estimated on

the basis of the value of land at the time the notice is served (*Tyson v. Lord Mayor of London* (1871), L. R. 7 C. P. 18), but where land included in a clearance area is acquired compulsorily under Part III of the Housing Act, 1936, the compensation to be paid for the land and any buildings thereon "shall be the value at the time the valuation is made of the land as a site cleared of buildings. . . ." Where notice to treat is served on or before the 17th November, 1949, the provisions of Part II of the Town and Country Planning Act, 1944, p. 737, *post*, will also apply.

In *R. v. Webster, Ex parte Marshall* (1931), 95 J. P. 226; Digest Supp., it was held under s. 39 (7) of the Housing of the Working Classes Act, 1890, reproduced in s. 40 (4) of the Housing Act, 1925, since repealed by the Housing Act, 1930, that it was insufficient to serve notice to treat within the three years and that the land had to be "acquired" within the three years. The time for compulsory purchase under the Housing Act, 1936, is now governed by s. 123 of the Lands Clauses Consolidation Act, 1845, p. 822, *post*.

Effect of notice to treat.—The service of a notice to treat under the Lands Clauses Act has the effect of binding the local authority to purchase and the landowner to give up the land subject to his being paid compensation (*Haynes v. Haynes* (1861), 1 Drew. & Sm. 426, at p. 450; 11 Digest 175, 526; *Adams v. London and Blackwall Rail. Co.* (1850), 2 Mac. & G. 118; 11 Digest 224, 1097; *Tiverton and North Devon Rail. Co. v. Loosemore* (1884), 9 App. Cas. 480, at pp. 493, 511; 11 Digest 219, 1035; *Mercer v. Liverpool, St. Helens and South Lancashire Rail. Co.*, [1903] 1 K. B. 652, C. A., at p. 661; approved, [1904] A. C. 461, at pp. 463, 465; 11 Digest 276, 2038). The general rule is that after a notice to treat has been served upon an owner it cannot be withdrawn without the consent of the owner (*Tawney v. Lynn and Ely Rail. Co.* (1847), 16 L. J. (Ch.) 282), but a special provision for the withdrawal of the notice to treat is contained in s. 5 (2) of the Acquisition of Land (Assessment of Compensation) Act, 1919, p. 730, *post*. It is doubtful, however, if a notice to treat served in respect of land comprised in an unhealthy area can be withdrawn, having regard to the language of s. 25 (3) of the Housing Act, 1936. It cannot be withdrawn where the authority have entered under an authorisation granted under s. 2 of the Acquisition of Land (Authorisation Procedure) Act, 1946; see s. 2 (4) of that Act, p. 658, *ante*.

But the owners may sell or convey the land or otherwise deal with it (*Dawson v. Great Northern and City Rail. Co.*, [1905] 1 K. B. 260, at pp. 268, 269, C. A.; 8 Digest 432, 96); furthermore, the notice to treat may be assigned and dealt with as property (*ibid.*, at p. 271). See also *Cardiff Corpn. v. Cook*, [1923] 2 Ch. 115; Digest Supp. (This case also deals with the rights of an assignee.)

The claim for compensation.—Upon receipt of a notice to treat the owner should first ascertain whether such notice has been served in pursuance of statutory powers and whether it is a valid notice. Having done this, he should then prepare a notice in writing stating the amount of compensation claimed by him. Such notice must (s. 5 (2) of the Acquisition of Land (Assessment of Compensation) Act, 1919):

- (a) state the exact nature of the claimant's interest;
- (b) give details of the compensation claimed;
- (c) distinguish the amounts under separate heads and show how the amount under each head is calculated;
- (d) be served on the local authority in sufficient time to enable the acquiring authority to make a proper offer.

In preparing the claim regard must of course be had to the special provisions of the Housing Act, 1936, prescribing the basis of compensation, and to Part II of the Town and Country Planning Act, 1944, p. 737, *post*, where notice to treat is served on or before the 17th November, 1949.

See also the notes to s. 57 of the Town and Country Planning Act, 1944, p. 738, *post*.

Procedure failing agreement as to amount of compensation.—The Acquisition of Land (Assessment of Compensation) Act, 1919, provides three methods by which the amount of compensation may be determined, in the event of the parties failing to agree thereon ; (1) a reference by consent to an agreed arbitrator ; or (2) a reference by consent to the Commissioners of Inland Revenue ; or (3) failing either of the former methods, a reference to an official arbitrator. Normally, the last-mentioned method is the one to which resort is made.

Attention is drawn to the Rules made under the Acquisition of Land (Assessment of Compensation) Act, 1919, set out at p. 755, *post*.

For Rules for the assessment of compensation, see s. 2, *infra*.

For Provisions as to procedure before official arbitrators, see s. 3, *infra*.

1. Tribunal for assessing compensation in respect of land compulsorily acquired for public purposes.—

(1) Where by or under any statute (whether passed before or after the passing of this Act) land (a) is authorised to be acquired compulsorily by any Government Department or any local or public authority, any question of disputed compensation, and, where any part of the land to be acquired is subject to a lease which comprises land not required, any question as to the apportionment of the rent payable under the lease, shall (b) be referred to and determined by the arbitration of such one of a panel of official arbitrators to be appointed under this section as may be selected in accordance with the Rules made by the Reference Committee (c) under this section.

(2) Such number of persons, being persons with special knowledge in the valuation of land, as may be appointed for England and Wales, Scotland and Ireland by the Reference Committee, shall form a panel of persons to act as official arbitrators for the purpose of this Act in England and Wales, Scotland and Ireland respectively : Provided that of the members of the said panel for England and Wales one at least shall be a person having special knowledge of the valuation of land in Wales and acquainted with the Welsh language.

(3) A person appointed to be a member of the panel of official arbitrators shall hold office for such term certain as may be determined by the Treasury before his appointment, and whilst holding office shall not himself engage, or be a partner of any other person who engages, in private practice or business.

(4) There shall be paid out of moneys provided by Parliament to official arbitrators such salaries or remuneration as the Treasury may determine.

(5) The Reference Committee—

- (a) for England and Wales, shall consist of the Lord Chief Justice of England, the Master of the Rolls and the President of the Surveyors' Institution.
- (b) for Scotland, shall consist of the Lord President of the Court of Session, the Lord Justice Clerk and the Chairman of the Scottish Committee of the Surveyors' Institution.
- (c) for Ireland, shall consist of the Lord Chief Justice of Ireland, the Master of the Rolls in Ireland and the President of the Surveyors' Institution, or (if the President of the Surveyors' Institution thinks fit) a person being a member of the council of that institution and having special knowledge of valuation of land in Ireland appointed by him to act in his place.

NOTES TO SECTION 1

It was held in *Blackpool Corpn. v. Starr Estate Co.*, [1922] 1 A. C. 27; 11 Digest 184, 650, that where a local Act contained special provision for ascertaining the amount of compensation payable the method of assessment there laid down must be followed. See also *Drapers Co. v. London Passenger Transport Board*, [1937] Ch. 344; [1937] 2 All E. R. 12; Digest Supp.

Contracting out of this section is not permitted. See *Thurrocks, Grays and Tilbury Joint Sewerage Board v. Thames Land Co., Ltd.* (1925), 90 J. P. 1; Digest Supp.

(a) "**Land.**"—See definition in s. 12 (2), *post*.

(b) "**Shall.**"—See, however, the provisions of s. 8, *post*.

(c) "**Rules made by the Reference Committee.**"—For these rules, see p. 755, *post*.

2. Rules for the assessment of compensation.—

In assessing compensation, an official arbitrator shall act in accordance with the following rules:—

- (1) No allowance shall be made on account of the acquisition being compulsory;
- (2) The value of land shall, subject as hereinafter provided, be taken to be the amount which the land if sold in the open market by a willing seller might be expected to realise: Provided always that the arbitrator shall be entitled to consider all returns and assessments of capital value for taxation made or acquiesced in by the claimant;
- (3) The special suitability or adaptability (a) of the land for the purpose shall not be taken into account if that purpose is a purpose to which it could be applied only in pursuance of statutory powers, or for which

there is no market apart from the special needs of a particular purchaser or the requirements of any Government Department or any local or public authority: Provided that any bonâ fide offer for the purchase of the land made before the passing of this Act which may be brought to the notice of the arbitrator shall be taken into consideration :

- (4) Where the value of the land is increased by reason of the use thereof or of any premises thereon in a manner which could be restrained by any court, or is contrary to law, or is detrimental to the health of the inmates of the premises or to the public health, the amount of that increase shall not be taken into account :
- (5) Where the land is, and but for the compulsory acquisition would continue to be, devoted to a purpose of such a nature that there is no general demand or market for land for that purpose, the compensation may, if the official arbitrator is satisfied that reinstatement in some other place is bonâ fide intended, be assessed on the basis of the reasonable cost of equivalent reinstatement :
- (6) The provisions of Rule (2) shall not affect the assessment of compensation for disturbance or any other matter not directly based on the value of land.

For the purposes of this section an official arbitrator shall be entitled to be furnished with such returns and assessments as he may require.

NOTES TO SECTION 2

General Note.—Before the passing of this Act, the rules for assessing compensation were as follows :

- (1) the value to be ascertained is the value to the vendor, not its value to the purchaser ;
- (2) In fixing the value to the vendor all restrictions imposed on the user and enjoyment of the land in his hands are to be taken into account, but the possibility of such restrictions being modified or removed for his benefit is not to be overlooked ;
- (3) Market price is not a conclusive test ;
- (4) Increase in value consequent on the execution of the undertaking for or in connection with which the purchase is made must be disregarded ;
- (5) The value to be ascertained is the price to be paid for the land with all its potentialities and with all the use made of it by the vendor ;
- (6) The true contractual relation of the parties, that of vendor and purchaser, is not to be obscured by endeavouring to construe it as another contractual relation altogether, namely, that of indemnifier and indemnified. (See *Re South Eastern Rail. Co. and London County Council's Contract, South Eastern Rail. Co. v. London County Council*, [1915] 2 Ch. 252 ; 11 Digest 124, 156 ; per EVE, J.)

- (7) The special adaptability of the land for the promoter's purpose can be considered (*Re Riddell and Newcastle and Gateshead Water Co.* (1879), 90 L. T. 44 n., C. A.; *Re Gough and Aspatria, Silloth and District Joint Water Board*, [1904] 1 K. B. 417; 11 Digest 127, 168); and this, notwithstanding that the land could not be utilised for the particular purpose by other possible competitors unless statutory powers were first obtained (*Re Lucas and Chesterfield Gas and Water Board*, [1909] 1 K. B. 16; 11 Digest 127, 169).
- (8) In addition to compensating the owner for the value of the land acquired the promoters must compensate him for *all the loss* incurred by the expulsion, and the principle of compensation is the same as in trespass for expulsion (*Rickets v. Metropolitan Rail. Co.* (1865), 34 L. J. (Q. B.) 257). Thus compensation is payable for disturbance, which term includes :
 - (1) loss of trade until other suitable premises have been found (*Jubb v. Hull Dock Co.* (1846), 9 Q. B. 443).
 - (2) loss of goodwill or diminution in value of goodwill (*White v. Works and Public Buildings Commissioners* (1870), 22 L. T. 591; 11 Digest 128, 176; *R. v. Scard* (1894), 10 T. L. R. 545).
 - (3) Fixtures : *Gibson v. Hammersmith Rail. Co.* (1863), 32 L. J. (Ch.) 337; 31 Digest 194, 3300.
 - (4) Increased rental of new premises or cost of reinstatement : *R. v. Burrow* (1884), *The Times*, 24 Jan. (C. A.); *affid. H. L.*, sub nom. *Metropolitan and District Rail. Co. v. Burrow*, *The Times*, 22 Nov. 1884.
 - (5) Tied house benefit of covenant to sell owners' beer only : *Bourne v. Liverpool Corpn.* (1863), 33 L. J. (Q. B.) 15; 11 Digest 129, 180; *Re Chandler's Wilshire Brewery Co. and London County Council*, [1903] 1 K. B. 569; *Re London County Council and City of London Brewery Co.*, [1898] 1 Q. B. 387; 38 Digest 566, 1049.
- (9) In estimating the purchase money or compensation to be paid by the promoters, regard shall be had not only to the value of the land to be purchased or taken by the promoters but also to the damage, if any, to be sustained by the owners of the lands by reason of the severing of the lands taken from the other lands of such owner, or otherwise injuriously affecting such other lands by the exercise of the compulsory powers (*Lands Clauses Consolidation Act*, 1845, s. 63, p. 805, *post*).

As part of the valuation of the land it is customary to make an addition of 10 per cent. to the value of the land (but not to the incidental damage).

The effect of s. 2 of the 1919 Act upon these general rules will now be considered.

First, it will be observed that no allowance shall be made on account of the acquisition being compulsory. This puts an end to the customary allowance of 10 per cent. in cases to which the 1919 Act is applicable.

Secondly, instead of the valuation being made on the basis of the value of the land to the vendor, it must be made on the basis of the amount which the land if sold in the open market by a willing seller might be expected to realise. There is an obvious difference in the wording of the rule, but is there any difference in substance? If the case law prior to the passing of the 1919 Act is examined it will be found that the value of the land to the vendor usually meant the price which the land would fetch if disposed of on the most advantageous terms; that price being tested by the imaginary market which would have ruled had the land been exposed for sale before any undertakers had secured any powers or acquired the other subjects which made the undertaking as a whole a realised possibility (*Cedar Rapids Manufacturing and Power Co. v. Lacoste*, [1914] A. C. 569, 576; 11 Digest 130, 187). But there might be exceptional cases in which the market value would not be equivalent to the value of the land to the vendor, nevertheless

market value is to be the conclusive test. To this extent the general rules 1-5, *supra*, are modified.

Thirdly, the special suitability or adaptability of the land for any purpose must not be taken into account if :

- (1) that purpose is a purpose to which it could be applied only in pursuance of statutory powers (this effects a modification of rule 7, *supra*) ;
- (2) that purpose is a purpose for which there is no market apart from the special needs of a particular purchaser or the requirements of any Government Department or any local or public authority. (This also modifies rule 7, *supra*).

Fourthly, where the value of the land is increased by reason of the use thereof or of any premises therein in a manner contrary to law, or is detrimental to the health of the inmates of the premises or to the public health, the amount of that increase shall not be taken into account. (Arbitrators probably acted on this rule in the past, but they are now obliged to act on it.)

Fifthly, where the land is, and but for the compulsory acquisition would continue to be, devoted to a purpose of such a nature that there is no general demand or market for land for that purpose, the compensation may, if the official arbitrator is satisfied that reinstatement in some other place is *bona fide* intended, be assessed on the basis of the reasonable cost of equivalent reinstatement. Compensation on the reinstatement basis was recognised under the law prior to 1919 ; see *Metropolitan and District Rail. Co. v. Burrow* (*supra*)—a very instructive case. No one had and no one has a right to have their compensation assessed on this basis. A person may claim compensation on the reinstatement basis if the circumstances bring his case within the rule, but the arbitrator is still left with a discretion as to whether or not he will assess compensation by this method or some other method. The rule makes one thing clear which was not clear previously, that in assessing compensation on the reinstatement basis, compensation must be in respect of *equivalent* reinstatement only.

Lastly, it is provided by section 2 (6) that the provisions of section 2 (2) shall not affect the assessment of compensation for disturbance or any other matter not directly based on the value of land. This is a most important provision as it means that the 1919 Act does not affect the old law as regards compensation for :

- (1) disturbance or consequential damage ;
- (2) severance and injurious affection.

The result is that the old general rules Nos. 8 and 9 still apply unless there is something in the enactment authorising the purchase which prevents their application.

In *Venables v. Department of Agriculture (Scotland)*, [1932] S. C. 573 ; Digest Supp., it was held that Rules (2) and (6) of s. 2 of the Acquisition of Land (Assessment of Compensation) Act, 1919, did not have the effect of displacing in any way the rule, now well settled in the construction of the Land Clauses Consolidation (Scotland) Act, 1845, that in the case of land taken compulsorily the compensation shall be for all loss resulting from the dispossession. In coming to that conclusion the court relied on the judgment of Lord KINNEAR in *The Lanarkshire and Dumbartonshire Rail. Co. v. Main* (1895), 22 R. (Ct. of Sess.) 912 ; 11 Digest 126, *h*. Lord KINNEAR in giving judgment in that case referred to *Ripley v. G. N. Rail. Co.* (1875), 10 Ch. App. 435 ; 11 Digest 126, 161. The well-settled rule may be best illustrated by a quotation from Lord KINNEAR's judgment at p. 919 : " it is a well-settled rule in the construction of the Lands Clauses Act that when lands have been taken in the exercise of powers of compulsory purchase, the owner or occupier, as the case may be, is entitled not only to the market value of his interest but to full compensation for all the loss he may sustain by being deprived of his land.

" There is no other way of ascertaining the loss thus occasioned than by

estimating the profits which might have been made if the land had not been taken."

His lordship thereafter went on to indicate that the estimation of the probability of such profits would be a matter for the arbiter.

In *Collins v. Feltham U.D.C.*, [1937] 4 All E. R. 189, it was held by the Divisional Court that where a person requires a local authority to purchase his land under the provisions of s. 10 (6) of the Town and Country Planning Act, 1932 (25 Halsbury's Statutes 484), the basis of compensation is the market value of the land only, and that a claim for loss of builder's profits cannot be maintained. See also the following cases: *Horn v. Sunderland Corpn.*, [1941] 2 K. B. 26; [1941] 1 All E. R. 480; 2nd Digest Supp. (on this section generally); *Inland Revenue Commissioners v. Clay*, [1914] 3 K. B. 466; 39 Digest 226, 63 ("open market," "willing seller," "expected to realise"); *Vyricherla Narayana Gajapatiraju (Raja) v. Revenue Divisional Officer, Vizagapatam*, [1939] A. C. 302; [1939] 2 All E. R. 317; Digest Supp. ("willing vendor," "market price," "potentialities of the land"). On the right of a parent company to claim compensation for disturbance on the acquisition of premises occupied by a subsidiary, see *Smith, Stone and Knight, Ltd. v. Birmingham Corpn.*, [1939] 4 All E. R. 116; Digest Supp.

(a) "**Special suitability or adaptability.**"—See as to the meaning of this expression, *Re Lucas and Chesterfield Gas and Water Board*, [1909] 1 K. B. 16; 11 Digest 127, 169; *Sidney v. N.E. Rail. Co.*, [1914] 3 K. B. 629; 11 Digest 128, 171.

3. Provision as to procedure before official arbitrators.—(1) In any proceedings before an official arbitrator, not more than one expert witness on either side shall be heard unless the official arbitrator otherwise directs:

Provided that, where the claim includes a claim for compensation in respect of minerals, or disturbance of business, as well as in respect of land, one additional expert witness on either side on the value of the minerals or, as the case may be, on the damage suffered by reason of the disturbance may be allowed.

(2) It shall not be necessary for an official arbitrator to make any declaration before entering into the consideration of any matter referred to him.

(3) The official arbitrator shall, on the application of either party, specify the amount awarded in respect of any particular matter the subject of the award.

(4) The official arbitrator shall be entitled to enter on and inspect any land which is the subject of proceedings before him.

(5) Proceedings under this Act shall be heard by an official arbitrator sitting in public.

(6) The fees (a) to be charged in respect of proceedings before official arbitrators shall be such as the Treasury may prescribe.

(7) Subject as aforesaid, the Reference Committee may make rules regulating the procedure (b) before official arbitrators.

NOTES TO SECTION 3

The provisions of this section except those of sub-ss. (5) and (6) will apply also to an arbitrator agreed on by the parties (see s. 8 (3)).

(a) **Fees.**—See the rules, p. 759, *post*.

(b) **Rules regulating procedure.**—See p. 755, *post*.

4. Consolidation of proceedings on claims for compensation in respect of various interests in the same land.—Where notices to treat have been served for the acquisition of the several interests in the land to be acquired, the claims of the persons entitled to such interests shall, so far as practicable, and so far as not agreed and if the acquiring authority so desire, be heard and determined by the same official arbitrator, and the Reference Committee may make rules providing that such claims shall be heard together, but the value of the several interests in the land having a market value shall be separately assessed.

NOTE TO SECTION 4

The provisions of this section will not apply where an arbitrator has been agreed upon. See Rule 7, p. 756, *post*.

5. Provision as to costs.—(1) Where the acquiring authority has made an unconditional offer (a) in writing of any sum as compensation to any claimant and the sum awarded by an official arbitrator to that claimant does not exceed the sum offered, the official arbitrator shall, unless for special reasons he thinks proper not to do so, order the claimant to bear his own costs and to pay the costs of the acquiring authority so far as such costs were incurred after the offer was made.

(2) If the official arbitrator is satisfied that a claimant has failed to deliver to the acquiring authority a notice in writing of the amount claimed by him (b) giving sufficient particulars and in sufficient time to enable the acquiring authority to make a proper offer, the foregoing provisions of this section shall apply as if an unconditional offer had been made by the acquiring authority at the time when in the opinion of the official arbitrator sufficient particulars should have been furnished and the claimant had been awarded a sum not exceeding the amount of such offer.

The notice of claim shall state the exact nature of the interest in respect of which compensation is claimed, and give details of the compensation claimed, distinguishing the amounts under separate heads and showing how the amount claimed under each head is calculated, and when

such a notice of claim has been delivered the acquiring authority may, at any time within six weeks after the delivery thereof, withdraw any notice to treat which has been served on the claimant or on any other person interested in the land authorised to be acquired, but shall be liable to pay compensation to any such claimant or other person for any loss or expenses occasioned by the notice to treat having been given to him and withdrawn, and the amount of such compensation shall, in default of agreement, be determined by an official arbitrator.

(3) Whether a claimant has made an unconditional offer in writing to accept any sum as compensation and has complied with the provisions of the last preceding subsection, and the sum awarded is equal to or exceeds that sum, the official arbitrator shall, unless for special reasons he thinks proper not to do so, order the acquiring authority to bear their own costs and to pay the costs of the claimant so far as such costs were incurred after the offer was made.

(4) Subject as aforesaid, the costs of an arbitration under this Act shall be in the discretion of the official arbitrator who may direct to and by whom and in what manner those costs or any part thereof shall be paid, and the official arbitrator may in any case disallow the cost of counsel.

(5) An official arbitrator may himself tax the amount of costs ordered to be paid, or may direct in what manner they are to be taxed.

(6) Where an official arbitrator orders the claimant to pay the costs, or any part of the costs, of the acquiring authority, the acquiring authority may deduct the amount so payable by the claimant from the amount of the compensation payable to him.

(7) Without prejudice to any other method of recovery, the amount of costs ordered to be paid by a claimant, or such part thereof as is not covered by such deductions as aforesaid shall be recoverable from him by the acquiring authority summarily as a civil debt (c).

(8) For the purpose of this section, costs include any fees, charges, and expenses of the arbitration or award.

NOTES TO SECTION 5

The provisions of this section apply also to an agreed arbitrator (s. 8 (3), *post*). The arbitrator may award a lump sum as costs. If an unconditional offer is made by the acquiring authority and no unconditional offer is made by the claimant, the arbitrator has an absolute discretion as to costs if the amount awarded exceeds the unconditional offer of the acquiring authority (*Bradshaw v. Air Council*, [1926] Ch. 329; Digest Supp.). An agreement between the parties as to costs not communicated to an arbitrator may be enforced by an

action on the agreement (*Mansfield v. Robinson*, [1928] 2 K. B. 353; Digest Supp.).

(a) "**Unconditional offer.**"—See *Fisher v. G.W. Rail. Co.*, [1911] 1 K. B. 551; 11 Digest 200, 790.

(b) **Notice of claim.**—See note on p. 723, *ante*.

(c) "**Summarily as a civil debt.**"—See note, p. 70, *ante*.

6. Finality of award and statement of special cases.

—(1) The decision of an official arbitrator upon any question of fact, shall be final and binding on the parties, and the persons claiming under them respectively, but the official arbitrator may, and shall, if the High Court so directs, state at any stage of the proceedings, in the form of a special case for the opinion of the High Court, any question of law arising in the course of the proceedings, and may state his award as to the whole or part thereof in the form of a special case for the opinion of the High Court.

(2) The decision of the High Court upon any case so stated shall be final and conclusive, and shall not be subject to appeal to any other Court.

NOTE TO SECTION 6

The provisions of this section apply also to an agreed arbitrator (s. 8 (3), *post*). Where an award has been given under this section in the form of a special case, the case should be set down in the Crown Paper List (*Hewitt v. Essex C.C.* (1927), 92 J. P. 36; Digest Supp.).

Where an official arbitrator had during the inquiry by him stated a case for the opinion of the Court and had embodied the decision of the Court in his final award, an application to set the award aside on the ground that it was bad in law was dismissed in view of sub-s. (2) in the text, and it was held that no appeal would lie from such dismissal (*Northwood v. L.C.C.* (1927), 91 J. P. 93; Digest Supp.). As to the meaning of "at any stage of the proceedings," see *Tabernacle Permanent Building Society v. Knight*, [1892] A. C. 298, at p. 302; 2 Digest 456, 1034. As to arbitrator's refusal to state a case, see *Re Palmer & Co. and Hosken & Co.*, [1898] 1 Q. B. 131; 2 Digest 456, 1037.

7. Effect of Act on existing enactments.—(1) The provisions of the Act or order by which the land is authorised to be acquired, or if any Act incorporated therewith, shall, in relation to the matters dealt with in this Act, have effect subject to this Act, and so far as inconsistent with this Act those provisions shall cease to have or shall not have effect :

Provided that nothing in this Act relating to the rules for assessing compensation shall affect any special provisions as to the assessment of the value of land *required for the purposes of Part I. or Part II. of the Housing of the Working Classes Act, 1890, or under the Defence of the Realm (Acquisition of Land) Act, 1916, and contained in those*

Acts respectively, or any Act amending those Acts, if and so far as the provisions in those Acts are inconsistent with the rules under this Act *and the provisions of the Second Schedule to the Housing of the Working Classes Act, 1890, 53 & 54 Vict. c. 70 ; 6 & 7 Geo. 5, c. 63, as amended by any subsequent enactment (except paragraphs (4), (5), (29), and (31) thereof) shall apply to an official arbitrator as they apply to an arbitrator appointed under that schedule, and an official arbitrator may exercise all the powers conferred by those provisions on such arbitrator (a).*

(2) The provisions of this Act shall apply to the determination of the amount of rent or compensation payable in respect of land authorised to be hired compulsorily under the Small Holdings and Allotments Act, 1908, 8 Edw. 7, c. 36, or any Act amending that Act, and any matter required thereby to be determined by a valuer appointed by the Board of Agriculture and Fisheries shall be determined by an official arbitrator in accordance with this Act.

NOTES TO SECTION 7

The provisions of this section in so far as they apply to an official arbitrator will also apply to an agreed arbitrator (s. 8 (3)). The words in *italics* were repealed by the Housing Act, 1925, s. 136, Schedule VI (13 Halsbury's Statutes 1071, 1077).

(a) See *Ellen Street Estates, Ltd. v. Minister of Health*, [1934] 1 K. B. 590 ; Digest Supp., referred to on p. 106, *ante*, also *Blackpool Corpn. v. Starr Estate Co., Ltd.*, [1922] 1 A. C. 27 ; Digest Supp. ; and *Courtaulds, Ltd. v. City of London Corporation*, [1926] 2 K. B. 506 ; Digest Supp.

8. Power to refer to Commissioners of Inland Revenue or to agreed arbitrator.—(1) Nothing in this Act shall prevent, if the parties so agree, the reference of any question as to disputed compensation or apportionment of rent to the Commissioners of Inland Revenue or to an arbitrator agreed on between the parties.

(2) Where a question is so referred to the Commissioners of Inland Revenue, the Commissioners shall not proceed by arbitration, but shall cause an assessment to be made in accordance with the rules for the assessment of compensation under this Act, and the following provisions shall have effect :—

(a) The parties shall comply with any direction or requirements as to the furnishing of information (whether orally or in writing), and the production of documents and otherwise ;

- (b) Any officer of the Commissioners appointed for the purpose shall be entitled to enter on and inspect any land which is subject to the reference to them ;
- (c) The Commissioners, if either party so desires within such time as the Commissioners may allow, shall give the parties an opportunity of being heard before such officer of the valuation office of the Commissioners as the Commissioners may appoint for the purpose ;
- (d) The assessment when made shall be published to the parties and take effect as if it were an award of an official arbitrator under this Act ;
- (e) If either party refuses or neglects to comply with any direction or requirement of the Commissioners, the Commissioners may decline to proceed with the matter, and in that case the question shall be referred to an official arbitrator as if there had been no reference to the Commissioners, and the official arbitrator when awarding costs shall take into consideration any report of the Commissioners as to the refusal or neglect which rendered such a reference to him necessary.

(3) Where a question is referred to an arbitrator under sub-section (1) of this section, the provisions of this Act, except sections one and four and so much of section three as requires proceedings to be in public and as provides for the fixing of fees, shall apply as if the arbitrator was an official arbitrator.

(4) Either party to a claim for compensation may require the Commissioners for Inland Revenue to assess the value of the land in respect of which the claim arises, and a copy of any such assessment shall be sent forthwith by the Commissioners to the other party, and a certified copy of such assessment shall be admissible in evidence of that value in proceedings before the official arbitrator, and the officer who made the assessment shall attend, if the official arbitrator so require, to answer such questions as the official arbitrator may think fit to put to him thereon.

9. Certificates of value of official arbitrators.—An official arbitrator may on the application of any person certify the value of land being sold by him to a Government department or public or local authority, and the sale of the land to the department or authority at the price so certified shall be deemed to be a sale at the best price that can reasonably be obtained.

10. Saving for statutory purchases of statutory undertakings.—(1) The provisions of this Act shall not apply to any purchase of the whole or any part of any statutory undertaking under any statutory provisions in that behalf prescribing the terms on which the purchase is to be effected.

(2) For the purposes of this section, the expression “statutory undertaking” means an undertaking established by Act of Parliament or order having the force of an Act, and the expression “statutory provisions” includes provisions of an order having the force of an Act.

11. Application to Scotland and Ireland.—(1) This Act shall apply to Scotland subject to the following modifications :—

(a) The provisions of this Act other than the provisions of the section thereof relating to rules for the assessment of compensation shall apply to the determination of any question which, under sub-section (11) of section seven or section seventeen of the Small Landholders (Scotland) Act, 1911 (1 & 2 Geo. 5, c. 49), is referred to arbitration, as if the Board of Agriculture for Scotland were the acquiring authority, and as if in the said sub-section (11) there were substituted for the Lord Ordinary on the Bills and the Lord Ordinary, except where the Lord Ordinary is therein last referred to, such person as may be prescribed by rules made by the Reference Committee for Scotland ; and the provisions of that Act including the Second Schedule to the Agricultural Holdings (Scotland) Act, 1908 (8 Edw. 7, c. 64), as thereby applied, shall in relation to such determination have effect subject to the aforesaid provisions of this Act :

(b) “High Court” means either division of the Court of Session ; “arbitrator” means arbiter, and “easement” means servitude.

(2) This Act shall apply to Ireland subject to the following modifications :—

Nothing in this Act shall affect the determination of the price or compensation to be paid on the compulsory acquisition of land by the Irish Land Commission or Congested Districts Board for Ireland under any statute or the special provisions contained in the

Labourers (Ireland) Act, 1885 (48 & 49 Vict. c. 77), and the enactments amending the same, with respect to the jurisdiction of the Irish Land Commission in cases where land is taken compulsorily under those provisions for a term of years.

12. Short title, commencement and interpretation.

—(1) This Act may be cited as the Acquisition of Land (Assessment of Compensation) Act, 1919, *and shall come into operation on the first day of September nineteen hundred and nineteen, but shall not apply to the determination of any question where before that date the appointment of an arbitration, valuation, or other tribunal to determine the question has been completed, or a jury has been empanelled for the purpose.*

(2) For the purposes of this Act, the expression “land” includes water and any interests in land or water and any easement or right in, to, or over land or water, and “public authority” means any body of persons, not trading for profit, authorised by or under any Act to carry on a railway, canal, dock, water or other public undertaking.

NOTE TO SECTION 12

The words in italics were repealed by the Statute Law Revision Act, 1927 (18 Halsbury's Statutes 1183).

TOWN AND COUNTRY PLANNING ACT, 1944

[7 & 8 Geo. 6. Ch. 47.]

An Act to make provision for the acquisition and development of land for planning purposes; for amending the law relating to town and country planning; for assessing by reference to 1939 prices compensation payable in connection with the acquisition of land for public purposes, and as to the rate of interest thereon; and for purposes connected with the matters aforesaid. [17th November 1944.]

PART II.—COMPENSATION IN CONNECTION WITH ACQUISITION OF LAND FOR PUBLIC PURPOSES.

57. Assessment of compensation in connection with acquisition of land for public purposes by reference to 1939 prices.—(1) Compensation (*a*) for the compulsory purchase (*b*) of an interest in land (*c*) by a government department or a local or public authority (*d*) within the meaning of the Acquisition of Land (Assessment of Compensation) Act, 1919, compensation to be estimated in connection with such a purchase for damage sustained by reason of the severing of land the subject thereof from other land held therewith or otherwise injuriously affecting such other land, (*e*) and compensation under section sixty-eight of the Lands Clauses Consolidation Act, 1845 (*f*), in respect of land injuriously affected by the execution of works on land acquired by such a department or authority, shall, except in the case of compensation assessed on the basis specified in rule (5) of the rules set out in section two of the said Act of 1919 (*g*), be assessed subject to the rule following, that is to say—

The value of any interest in land purchased pursuant to a notice to treat served (*h*) at any time within the period of five years from the commencement of this Act (*i*), the amount of any damage sustained by reason of severance or other injurious affection compensation for which is to be estimated in connection with a purchase of an interest in land pursuant to such a notice, and the amount of any damage sustained by reason of other land being injuriously affected by the execution of works which either is sustained or the amount of which falls to be ascertained at any time within that period, shall be ascertained by reference to prices current at the thirty-first day of March, nineteen hundred and thirty-nine (*k*), on the assumption that the interest had at that date been subsisting as it was in fact subsisting at the time of service of the notice to treat, (*l*) and that the land in which the interest subsisted, and any such other land, had been at that date in the state in which it in fact was at the time of service of the notice to treat.

(2) The rule set out in the preceding subsection shall, in its application to tenancies, to land capable of being

redeveloped in combination with other land, to dwelling-houses to which the Rent and Mortgage Interest (Restrictions) Acts, 1920 to 1925 (*m*), apply, and to agricultural holdings (*n*), have effect subject to the provisions of the Seventh Schedule to this Act.

(3) Compensation for disturbance (*o*) shall not in any case be assessed at any greater amount than that at which it would have fallen to be assessed if this section had not been enacted.

NOTES TO SECTION 57

(a) "**Compensation.**"—The compensation to which this section applies is for :—

- (1) the compulsory purchase of an interest in land (Lands Clauses Consolidation Act, 1845, ss. 18, 21, 49 and 63, pp. 797, 798, 802, 803, *post*; Acquisition of Land (Assessment of Compensation) Act, 1919, ss. 1 and 2, p. 724, *ante*);
- (2) damage sustained by reason of the severing of land the subject of compulsory purchase from other land held therewith or otherwise injuriously affecting such other land (Lands Clauses Consolidation Act, 1845, ss. 49 and 63);
- (3) injurious affection to land (not the subject of compulsory purchase) by reason of the execution of works on land acquired by a government department, local or public authority (Lands Clauses Consolidation Act, 1845, s. 68, p. 806, *post*);
- (4) disturbance. (See sub-s. (3).)

(b) "**Compulsory purchase.**"—In practice the amount paid for an interest in land purchased by agreement is determined very largely by the basis of compensation in the case of a compulsory purchase.

(c) "**An interest in land.**"—See *Smith, Stone and Knight, Ltd. v. Birmingham Corpn.*, [1939] 4 All E. R. 116; Digest Supp. (acquisition of premises on which business of subsidiary company carried on. Right of subsidiary company to claim compensation for disturbance); *Oppenheimer v. Minister of Transport*, [1942] 1 K. B. 242; [1941] 3 All E. R. 485; 2nd Digest Supp. (option to purchase held to be an interest in land).

(d) "**Government department or a local or public authority.**"—These words occur in s. 1 of the Acquisition of Land (Assessment of Compensation) Act, 1919 (p. 724, *ante*), in which "public authority" is defined by s. 12 (2) to mean "any body of persons not trading for profit, authorised by or under an Act to carry on a railway, canal, dock, water or other public undertaking." Referring to this definition in *Metropolitan Water Board v. Berton*, [1921] 1 Ch. 299, PETERSON, J., said, at p. 305: "I think that on the true meaning of this section any body of persons authorised by statute to carry on a public undertaking which does not trade with the object of making profits for themselves or distributing profit as a dividend is a public authority within the Act of 1919, but that a body of persons authorised by a special Act to carry on one of the undertakings referred to in the definition section of the Act of 1919, is excluded from the definition of 'public authority,' if the object of its trading is to make a profit for the purpose of distribution among its members."

(e) "**Damage due to severance,**" etc.—When part of an owner's land is taken, he may suffer damage in consequence of the injury thereby caused to his remaining land. It may, for instance, be cut into two parts, as when a road is made through an estate, or the alteration in its size or shape may render it less suitable for the purposes to which it was or might have been

applied. It may also be rendered less valuable by reason of the construction, existence, and carrying on of the undertaking in its vicinity. Under the Lands Clauses Consolidation Acts the owner of the land is entitled to compensation for damage sustained by him by reason of severance or the injurious affection of his other lands.

(f) "**Compensation under s. 67 of the Lands Clauses Consolidation Act, 1845.**"—The wording of this part of sub-s. (1) should be carefully noted :—

"In respect of land injuriously affected by the execution of works on land acquired by such a department or authority."

The rule laid down by this subsection, therefore, only applies to a claim arising out of injurious affection by the execution of works in land acquired (not necessarily compulsorily) by a government department or local or public authority. It must also be borne in mind that the government department or local or public authority are entitled to use the land acquired by them in any way in which an adjoining owner might have lawfully used it without conferring any right to compensation. See further on this rather complicated question, 6 Halsbury's Laws (2nd Edn.) 52 60.

(g) **Acquisition of Land (Assessment of Compensation) Act, 1919, s. 2, rule 5.**—Compensation assessed under this rule ("the re-instatement basis") is excepted from the operation of the rule laid down in sub-s. (1).

(h) "**Notice to treat served.**"—The rule will apply also to those cases in which notice to treat is "deemed to have been served."

(i) "**Within the period of five years.**"—This limitation, which dates from November 17th, 1944, should be noted.

(k) "**By reference to prices current at the thirty-first day of March nineteen hundred and thirty-nine.**"—In valuing land (including any buildings thereon) it is customary to have regard to sales of comparable properties, if any, in the neighbourhood. The most valuable evidence on these lines, in view of the new rule, will be of sales in or about March 1939. Sales of comparable properties at or about the time compensation is assessed, will not, however, be irrelevant as a competent valuer will be able to make the necessary adjustment by reference to prices current at 31st March, 1939. Sometimes property has to be valued by reference to its cost of construction; if this method is adopted, reference will have to be made to 1939 prices. It is thought that experienced valuers will have no difficulty in giving effect to the direction contained in this subsection.

(l) "**Subsisting at the time of the service of the notice to treat.**"—See section 61 and the Eighth Schedule regarding the assessment of compensation for purchase of land required to be valued under the War Damage Act, 1943; 36 Halsbury's Statutes 334.

(m) **Rent and Mortgage Interest (Restrictions) Acts, 1920 to 1925.**—Note the provisions contained in s. 65 (2) and para. 3 of the Seventh Schedule.

(n) "**Agricultural holdings.**"—See para. 4 of the Seventh Schedule.

(o) "**Compensation for disturbance.**"—In *Horn v. Sunderland Corpn.*, [1941] 2 K. B. 26, Scott, L.J., said at p. 43; [1941] 1 All E. R. 480, at p. 492; 2nd Digest Supp.: "As I have already indicated inferentially, there is in the 1845 Act, no express provision giving compensation for disturbance, or for any of the similar matters to which s. 2 (6) of the 1919 Act refers—which for brevity I will treat as included in the word 'disturbance,' the more suitably so as the claim in issue in the appeal is for disturbance proper. If I am right in saying that the Act expressly grants only two kinds of compensation to an owner who has lands taken—namely (i) for the value to him of the land, and (ii) for injurious affection to his other land—it is plain that the judicial eye which has discerned that right in the Act must inevitably have found it in (i), that is, in the fair purchase price of the land taken, and that conclusion

is consonant with all the decisions, so far as I can discover." Compensation under this heading has been awarded in respect of :—

- (1) Loss of trade until other suitable premises have been found (*Jubb v. Hull Dock Co.* (1846), 9 Q. B. 443) ;
- (2) Loss of goodwill or diminution in value of goodwill (*White v. Works and Public Buildings Comrs.* (1870), 22 L. T. 591 ; 11 Digest 128, 176 ; *R. v. Scard* (1894), 10 T. L. R. 545).
- (3) Fixtures (*Gibson v. Hammersmith and City Rail. Co.* (1863), 2 Drew. & Sm. 603 ; 31 Digest 194, 3300).
- (4) Increased rental of new premises (*R. v. Burrow* (1884), *Times*, January 24th (C.A.) ; affirmed, *sub nom. Metropolitan and District Rail. Co. v. Burrow*, *Times*, November 22nd (H. L.)).
- (5) Tied house benefit of covenant to sell owner's beer only (*Bourne v. Liverpool Corpn.* (1863), 2 New Rep. 425 ; 11 Digest 129, 180 ; *Re Chandler's Wiltshire Brewery Co. and London County Council*, [1903] 1 K. B. 569 ; *Re London County Council and City of London Brewery Co.*, [1898] 1 Q. B. 387).

58. Supplement to compensation in case of owner-occupiers.—(1) Where the person entitled to compensation assessed subject to the rule set out in subsection (1) of the last preceding section for the purchase of an interest in land consisting of or comprising a building (not being agricultural property) (a) or consisting of or comprising agricultural property (that is to say, agricultural land or agricultural buildings as defined in section two of the Rating and Valuation (Apportionment) Act, 1928, or a farmhouse (b)) is an owner-occupier (c), he shall be entitled to receive from the purchasing authority, as a supplement to that compensation, such sum, if any, not exceeding the maximum hereinafter specified, as may be reasonable having regard to the extent to which, in all the circumstances of his occupation, he is affected by the purchase of the interest.

(2) The maximum for the sum which may be paid under this section in respect of an interest in land as consisting of or comprising a building shall be—

- (a) where the interest in question is the fee simple [sixty per cent.], *thirty per cent.* (d), of the value of the building ascertained by reference to prices current at the thirty-first day of March, nineteen hundred and thirty-nine ;
- (b) where the interest in question is a tenancy, the amount by which the value of the tenancy in the building ascertained by reference to prices current at the said thirty-first day of March falls short of the value of the tenancy in the building ascertained by reference to prices [sixty per cent.] *thirty per cent.* greater than those current at that date.

(3) The maximum for the sum which may be paid under this section in respect of an interest in land as consisting of or comprising agricultural property shall be the amount (if any) by which—

- (a) the value of the interest in the agricultural property, ascertained by reference to prices current at the said thirty-first day of March, falls short of
- (b) the value of the interest in the agricultural property ascertained by reference to prices [sixty per cent.] *thirty per cent.* greater than those current at that date and on the assumption that that property had been at that date subject to a permanent restriction to use as agricultural property within the meaning of this section.

(4) In making any valuation of a building, of a tenancy in a building or of an interest in agricultural property, which is required for fixing either of the said maxima it shall be assumed that the building or property had been at the thirty-first day of March, nineteen hundred and thirty-nine, in the state in which it in fact was at the time of service of the notice to treat, except that, in a case in which the building or property has sustained war damage any of which has not been made good at that time and in respect of which the appropriate payment under the War Damage Act, 1943, would apart from the compulsory purchase be a payment of cost of works, it shall be assumed that the building or property had been on the said thirty-first day of March in the state in which it was immediately before the occurrence of the damage.

(5) The person (e) entitled to compensation for the purchase of an interest in land consisting of or comprising a building or agricultural property shall be deemed for the purposes of this Part of this Act to be an owner-occupier if any of the following conditions are satisfied, and not otherwise, that is to say—

- (a) if he is in occupation of the building or property at the time of service of the notice to treat (f) ;
- (b) in the case of a building or property so damaged at that time as not to be fit for occupation, if he was in occupation thereof when the damage occurred ;
- (c) in the case of a building or property of which possession has been taken without other title by virtue of any enactment, or by an authority by whom, and in circumstances in which, possession thereof could

have been so taken, and has not been given up before that time, if he was in occupation thereof when possession was so taken ; or

(d) if—

(i) the title under which the building or property is held at that time is such that he then has the right to enter into occupation thereof or will be in a position to obtain that right (g) within five years from that time, and

(ii) it was at that time his intention, subject to its being possible for him so to do, to enter into occupation of the building or property within the said five years, or, if it is so damaged as not to be fit for occupation, to cause it to be restored for his occupation, or to enter into occupation of premises to be substituted therefor, within the said five years.

(6) For the purposes of the last preceding subsection—

(a) references to the person entitled to the compensation shall, where that person holds as trustee or otherwise for the benefit of another or subject to the directions of another, be construed subject to such adaptations as may be prescribed by regulations made by the Lord Chancellor (h) ;

(b) references to occupation of a building or property include references to occupation of a part thereof, so however that a person shall not be treated under this paragraph as in occupation of a building or property by virtue of his occupying a part thereof if he occupies it wholly or mainly (i) in connection with the management, supervision or control of the building or property as a whole ;

(c) a person shall be treated as in occupation of a building or property if it is in the occupation of a person in his employment for the purposes of that employment, so however that a person shall not be treated under this paragraph as in occupation of a building or property by virtue of any occupation thereof by a person employed by him as caretaker of that building or property (k) ;

(d) no regard shall be had to any impediment to a right to enter into occupation arising from the subsistence of a tenancy which, by virtue of the Validation of War-Time Leases Act, 1944, or

otherwise, is for a term having more than five years to run at the time of service of the notice to treat but is subject to a right on the part of the landlord to determine the tenancy by notice after the end of the war if it ends before the expiration of that term, or arising from the operation of the Rent and Mortgage Interest Restrictions Acts, 1920 to 1939 (or of any enactment amending or replacing any enactment in those Acts), or arising from the subsistence by virtue of any enactment of a right to possession of land without other title thereto ;

- (e) no regard shall be had to occupation or intended occupation of a building or property entered into, or intended to be entered into, with a view to rendering a sum payable under this section in a case in which it would not otherwise have been payable (l).

(7) In this section the expression " farmhouse " (m) means a house used as the dwelling-house of a person who is primarily engaged in carrying out or directing agricultural operations on land in the neighbourhood (n) of the house.

NOTES TO SECTION 58

(a) "**Agricultural property.**"—The definitions contained in s. 2 (2) of the Rating and Valuation (Apportionment) Act, 1928 (14 Halsbury's Statutes 714), are as follows :—

"Agricultural land" means any land used as arable meadow or pasture ground only, land used for a plantation or a wood or for the growth of saleable underwood, land exceeding one quarter of an acre used for the purpose of poultry farming, cottage gardens exceeding one quarter of an acre, market gardens, nursery grounds, orchards or allotments, including allotment gardens within the meaning of the Allotments Act, 1922, but does not include land occupied together with a house as a park, gardens (other than as aforesaid), pleasure grounds, or land kept or preserved mainly or exclusively for purposes of sport or recreation, or land used as a racecourse ; and for the purpose of this definition the expression 'cottage garden' means a garden attached to a house occupied as a dwelling by a person of the labouring classes ;

"Agricultural buildings" means buildings (other than dwelling houses) occupied together with agricultural land or being or forming part of a market garden, and in either case used solely in connection with agricultural operations thereon.

By s. 22 of the Allotments Act, 1922 (1 Halsbury's Statutes 315) :—

The expression "allotment garden" means an allotment not exceeding forty poles in extent which is wholly or mainly cultivated by the occupier for the production of vegetable or fruit crops for consumption by himself or his family.

(b) "**Farmhouse.**"—See sub-s. (7).

(c) "**An owner-occupier.**"—See sub-s. (5). Sub-s. (2) makes it quite clear that the supplementary compensation is not limited to an owner-occupier who is the owner in fee simple. As to the position which will arise where a parent company owns the premises occupied by a subsidiary company, or *vice versa*, see *Smith, Stone and Knight, Ltd. v. Birmingham Corpn.*, [1939] 4 All E. R. 116; Digest Supp.

(d) "**Thirty per cent.**"—Note the provision contained in s. 60 (3). Under that provision this amount has now been increased to sixty per cent. from the 22nd July, 1946. See Acquisition of Land (Increase of Supplement) Order, 1946, S. R. & O., 1946, No. 1163, p. 778, *post*.

(e) "**Person.**"—By s. 19 of the Interpretation Act, 1889 (18 Halsbury's Statutes 1001), it is provided that :

"In this Act and every Act passed after the commencement of this Act the expression 'person' shall, unless the contrary intention appears, include any body of persons corporate or unincorporate."

(f) "**At the time of the service of the notice to treat.**"—In the case of a notice to treat "deemed to have been served," the material date would be the date on which the notice is deemed to have been served.

(g) "**Will be in a position to obtain the right.**"—Note sub-s. (6) (d), *supra*.

(h) **Subsection (6) (d).**—This paragraph may give rise to difficult questions of fact. As a result of the first part of the paragraph, a person who owns a building or property and who occupies part of it is to be treated as an owner-occupier of the whole; but there is a proviso to this: a person who owns a building or property and occupies part of it, is not to be treated as an owner-occupier if he occupies the part wholly or mainly in connection with the management, supervision or control of the building or property. This proviso would clearly exclude from the category of owner-occupiers a person who owns a block of offices or flats and has one or two rooms in the block which he uses for the purpose of managing the lettings and supervising the building. If, however, a person carries on other business in addition then it will become a question of whether he is occupying the rooms *mainly* in connection with the management, supervision or control of the building.

(i) "**Mainly.**"—See *Miller v. Otilie (Owners)*, [1944] K. B. 188, *per* LUXMOORE, L.J.; [1944] 1 All E. R. 277; 2nd Digest Supp.; and *Re Hatschek's Patents, Ex parte Zerenner*, [1909] 2 Ch. 68, *per* PARKER, J., at pp. 82, 83; 36 Digest 734, 2223.

(k) **Subsection (6) (c).**—The latter part of this paragraph, relating to occupation by a caretaker, may give rise to difficulties. In any difficult case it should be borne in mind that this paragraph links up with sub-s. (5) (a), which enacts that a person is to be deemed to be an owner-occupier if (*inter alia*) he is in occupation of the building or property at the time of the service of the notice to treat. Secondly, a person who merely closes his building or property, while he goes on a holiday, would still remain the owner-occupier, and if he left it in charge of a caretaker while he was away, he would, it is submitted, still remain the owner-occupier, because of his own occupation, not by reason of his caretaker's occupation. But where the occupation is solely by a caretaker, it would appear to come within this paragraph.

(l) **Subsection (6) (e).**—This requires that the occupation or intended occupation shall be *bona fide*, but an allegation that it is not, is likely, as a general rule, to be difficult to prove. It may prove of value in cases of intended occupation where there is evidence that prior to the service of the notice to treat the owner did not intend to occupy the building or property.

(m) "**Farmhouse.**"—See s. 72 of the Local Government Act, 1929 (10 Halsbury's Statutes 931), which deals with "agricultural dwelling-houses."

(n) "**Neighbourhood.**"—See *Alliance Economic Investment Co. v. Berton* (1923), 92 L. J. (K. B.) 750 (C. A.), *per* BANKES, L.J., at p. 752; 31 Digest 173, 3066. In this definition the words are not simply "in the neighbourhood" but in the neighbourhood of the house: the difference may prove an important one.

59. Supplement to compensation in case of improvements.—Where compensation assessed subject to the rule set out in subsection (1) of section fifty-seven of this Act is for the purchase of an interest in land which, after the thirty-first day of March, nineteen hundred and thirty-nine, and before the time of service of the notice to treat, has been improved by the erection thereon of a building or by improvements made to a building or to agricultural land comprised therein, the person entitled to the compensation shall be entitled to receive from the purchasing authority, as a supplement to that compensation, such sum, if any, by way of addition to the value, ascertained by reference to prices current at the said thirty-first day of March, of the purchased interest in the land (a) so far as attributable to the improvements, as may be reasonable having regard to all the circumstances, including in particular the cost of the improvements, any provision which may have been made for the payment of any of the cost thereof out of public moneys, and any increased returns or increased prices in respect of, or of products of, work done on the improved land in so far as it appears that the increase was intended to make provision for recovery of capital applied in making the improvements apart from provision for depreciation.

NOTES TO SECTION 59

General Note.—The conditions under which this supplement will be payable are as follows:

The land must have been improved:

- (1) by the erection thereon of a building; or
- (2) by improvements made to a building comprised in the land; or
- (3) by improvements made to agricultural land comprised therein;

after the 31st March, 1939, and before the date of the service of the notice to treat.

The amount of the supplement has to be assessed according to prices current at 31st March, 1939.

(a) **The purchased interest in the land.**—This apparently means compensation awarded under s. 2, rule 2 of the 1919 Act, in respect of the value of the land and does not include compensation for severance and injurious affection. (See *Horn v. Sunderland Corpn.*, [1941] 2 K. B. 26, *per* Scott, L.J., at pp. 48, 49; [1941] 1 All E. R. 480, at pp. 495, 496; 2nd Digest Supp.).

60. Supplemental provisions relating to the two preceding sections.—(1) On a claim being made for payment of a sum under either of the two last preceding sections as a supplement to any compensation the purchasing authority may settle the claim in agreement with the person entitled to the compensation, and in default of agreement the claim shall be referred to and determined by an arbitrator to be appointed in accordance with the provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919 :

Provided that—

- (a) a county court shall have jurisdiction to hear and determine any question arising on such a claim whether the claimant is a person who is to be deemed for the purposes of this Part of this Act to be an owner-occupier ; and
- (b) in lieu of the provisions of the said Act of 1919 as to the statement of special cases (a), the arbitrator may at any stage of the proceedings before him, and shall, if so directed by the judge of a county court, state in the form of a special case for the opinion of that court any question of law arising in the course of the proceedings, and may state his award as to the whole or part thereof in the form of a special case for the opinion of a county court.

(2) The Treasury may make regulations prescribing the manner in which, and matters by reference to which, any valuation required for the purposes of the determination of a claim for payment of a sum under either of the two last preceding sections is to be made.

(3) Provision may be made by an order made by the Treasury and approved by a resolution of each House of Parliament for substituting, in view of any circumstances arising since the passing of this Act, for any reference in section fifty-eight of this Act to thirty per cent. a reference to such higher or lower percentage as may be specified in the order, either generally or as respects any particular provision of that section (b).

An order or orders may be made under this subsection as respects such period or respective periods as appear to the Treasury to be appropriate, and any such order shall have effect (if approved as aforesaid) in relation to interests in respect of which notices to treat are served during the period as respects which the order is made.

(4) Where the person entitled to any compensation would apart from this provision be entitled to receive a sum as a supplement to that compensation under both of the last two preceding sections, he shall be entitled to receive whichever of those sums is the greater, to the exclusion of the other.

(5) A sum payable under either of the two last preceding sections as a supplement to any compensation shall be held and disposed of in like manner as if it had formed part of the compensation, and, where the compensation carries interest, shall carry interest at the rate and from the date at and from which interest on the compensation is payable (c).

NOTES TO SECTION 60

(a) **Statement of special cases.**—S. 6 of the 1919 Act provides that :

(1) the decision of an official arbitrator upon any question of fact, shall be final and binding on the parties, and the persons claiming under them respectively, but the official arbitrator may, and shall, if the High Court so directs, state at any stage of the proceedings, in the form of a special case for the opinion of the High Court, any question of law arising in the course of the proceedings, and may state his award as to the whole or part thereof in the form of a special case for the opinion of the High Court.

(2) the decision of the High Court upon any case so stated shall be final and conclusive and shall not be subject to appeal to any other court.

(b) See Acquisition of Land (Increase of Supplement) Order, S. R. & O., 1946, No. 1163, p. 778, *post*, made under this subsection increasing the supplements payable under s. 58 to sixty per cent.

(c) **Subsection (5).**—See Lands Clauses Consolidation Act, 1845, ss. 69 to 80—"Application of compensation."

61. Ascertainment of compensation for purchase of land valued under the War Damage Act, 1943.—

(1) The provisions of the Eighth Schedule to this Act shall have effect as to the ascertainment of the compensation for the compulsory purchase of an interest in the whole of the land in a hereditament within the meaning of the War Damage Act, 1943 (a), the value of which is required by that Act to be ascertained by reference to its state after war damage.

(2) In this section, and in the Eighth Schedule to this Act, references to the compensation for the compulsory purchase of an interest shall be construed as references to the compensation payable apart from any supplement under section fifty-eight or fifty-nine of this Act.

NOTE TO SECTION 61

(a) **War Damage Act, 1943.**—See 36 Halsbury's Statutes 334.

62. Power to prescribe rate of interest payable where entry made before payment of compensation.—

(1) The rate of interest for any period after the commencement of this Act on compensation which fell or falls, in default of agreement, to be ascertained in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919 (whether as originally enacted or as amended by this Act), in respect of land compulsorily purchased on which entry has been made before the payment of the compensation shall, in lieu of being the rate of five per cent. specified in section eighty-five of the Lands Clauses Consolidation Act, 1845, be four per cent. per annum or such other rate as may be prescribed by regulations made by the Treasury under this section.

(2) The Treasury may from time to time make regulations prescribing the rate at which such interest as aforesaid for the period after the coming into force of the regulations, and before the coming into force of any subsequent regulations made under this section, is to be payable.

PART III.—GENERAL

63. Regulations.—(1) In this Act, except where the context otherwise requires, the expression "prescribed" means prescribed by regulations made by the Minister (a).

(2) Any regulations made under this Act shall be laid before Parliament (b) as soon as may be after they are made, and if either House of Parliament within the period of forty days beginning with the day on which the regulations are laid before that House (c) resolves that the regulations be annulled the regulations shall thereupon become void, without prejudice, however, to the validity of anything previously done thereunder or to the making of new regulations.

In reckoning any such period of forty days as aforesaid no account shall be taken of any time during which Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than four days.

(3) Notwithstanding anything in subsection (4) of section one of the Rules Publication Act, 1893, regulations made under this Act shall be deemed not to be, or to contain, statutory rules to which that section applies.

NOTES TO SECTION 63

(a) **Minister.**—The Minister of Town and Country Planning (s. 1).

(b) "**Laid before Parliament.**"—The procedure of the two houses when orders or regulations are "laid" is described in the Report of the Committee on Minister's Powers, 1932, Cmd. 4060, pp. 41-44. It is submitted that proof that the Regulations have "laid" is unnecessary in any proceedings unless a *prima facie* case has been made out that they had not been laid. See s. 2 of the Documentary Evidence Act, 1868 (8 Halsbury's Statutes 230).

(c) "**Resolves.**"—Note that the Regulations are effective unless and until they are annulled by a resolution of either House. In this instance Parliament has delegated power to each house to legislate by resolution. The delegated power is very restricted in that each House can only annul—it cannot amend—the Regulations.

64. Powers of official arbitrator on references to him.—An official arbitrator appointed in accordance with the provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919, to whose determination any matter is referred under this Act shall have the like powers with respect to procedure, costs and the statement of special cases as he has under that Act, except in so far as is otherwise provided by this Act.

65. Interpretation.—(1) In this Act, except where the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say—

"appropriate Minister," in relation to a statutory undertaking, has the meaning assigned to it by section thirteen of this Act ;

"clearing" means preparing land to the prescribed extent for development, including the construction of any prescribed (a) works in the course of so preparing it ;

"development" includes re-development ;

"ecclesiastical property" has the meaning assigned to it by section fifty-two of this Act ;

"first local advertisement" means, in relation to the publication of a notice as respects any land, the first publication of the notice in a newspaper circulating in the locality where the land is situated, and includes, in relation to a notice so published once only, the publication thereof ;

"Gazette and local advertisement" means, in relation to an application, order or certificate relating to any land, publication in the London Gazette and, in each of two successive weeks, in one or more newspapers circulating in the locality in which the land is situated ;

- “ interim development application ” and “ interim development authority ” have the same meanings as in the Town and Country Planning (Interim Development) Act, 1943 ;
- “ loan charges ” means the sums required for the payment of interest on borrowed moneys and for the repayment thereof either by instalments or by means of a sinking fund ;
- “ local highway authority ” means a highway authority other than the Minister of War Transport, and includes the London County Council ;
- “ local planning authority ” has the meaning assigned to it by section fifty-five of this Act ;
- “ owner,” in relation to any building or land, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the building or land, whether in possession or in reversion, and includes also a person holding or entitled to the rents and profits of the building or land under a lease or agreement, the unexpired term whereof exceeds three years ;
- “ planning scheme ” means a scheme under the Town and Country Planning Act, 1932, and includes a town planning scheme under the Town Planning Act, 1925, or any enactment repealed by that Act ;
- “ purchasing authority ” includes a Minister purchasing under this Act ;
- “ purchase order providing for expedited completion ” has the meaning assigned to it by subsection (3) of section eighteen of this Act ;
- “ statutory undertaking ” has the meaning assigned to it by section thirteen of this Act ;
- “ Valuation Office ” means the Valuation Office of the Inland Revenue Department ;
- “ war damage ” (b) has the meaning assigned to it by the War Damage Act, 1943.

(2) References in this Act to any other enactment shall, unless the context otherwise requires, be construed as references to that enactment as amended by this Act or by or under any other enactment (c).

(3) Words in this Act importing a reference to service of a notice to treat shall be construed as including a reference to the constructive service of such a notice which, by virtue of the Sixth Schedule to this Act or of any other enactment, is to be deemed to be served.

NOTES TO SECTION 65

- (a) "Prescribed."—See s. 63 (1), *ante*.
(b) "War damage."—See 7 Statutes Supplement (2nd Edn.), 122.
(c) Subsection (2).—The provision contained in this subsection may prove to be highly important.

66. Short title and extent.—(1) This Act may be cited as the Town and Country Planning Act, 1944.

(2) This Act shall not extend to Scotland or to Northern Ireland.

SCHEDULES.

* * * * *

SEVENTH SCHEDULE.

(Section 57.)

PROVISIONS AS TO OPERATION IN CERTAIN SPECIAL CASES OF RULE IN SECTION 57 (1) AS TO ASSESSMENT OF COMPENSATION.

1. Where in ascertaining the value of any such interest, or the amount of any such damage, as is mentioned in subsection (1) of section fifty-seven of this Act regard is to be had to rent payable in respect of a tenancy created after the thirty-first day of March, nineteen hundred and thirty-nine (whether the tenancy is vested in the person claiming the compensation or not) the said rent shall be taken to be the lesser of the two following amounts, that is to say—

- (a) the rent in fact payable in respect of the tenancy ; or
(b) the maximum rent which would have been obtainable from a willing tenant if the tenancy had been created on the thirty-first day of March, nineteen hundred and thirty-nine, for the like term and subject to the like covenants and conditions.

2. Where the value of any such interest, or the amount of any such damage, as aforesaid is increased by reason of the possibility of redeveloping the land in which the interest subsists, or the land affected by severance or injuriously affected, as the case may be, in combination with other land, the amount of the increase shall be disregarded in so far as that possibility is attributable to circumstances, other than the effluxion of time, occurring since the thirty-first day of March, nineteen hundred and thirty-nine.

3. In ascertaining the value of any such interest as aforesaid, or the amount of any such damage as aforesaid, a dwelling-house to which the Rent and Mortgage Interest (Restrictions) Acts, 1920 to 1925, applied at the time of service of the notice to treat shall not be treated as a dwelling-house to which those enactments then applied unless they applied thereto at the thirty-first day of March, nineteen hundred and thirty-nine.

4. Where a person is in possession of a holding as defined for the purposes of the Agricultural Holdings Act, 1923, having an interest therein greater than as tenant for a year or from year to year, then so far as the value of the interest is attributable to crops it shall be ascertained in like manner as in the case of the interest of a tenant from year to year, that is to say, without regard to the rule set out in subsection (1) of section fifty-seven of this Act.

EIGHTH SCHEDULE.

(Section 61.)

ASCERTAINMENT OF COMPENSATION FOR PURCHASE OF LAND VALUED UNDER THE WAR DAMAGE ACT, 1943.

*Certified after-damage value of land to be taken in certain circumstances
as its value for compensation on compulsory purchase.*

1.—(1) Where the subject of a compulsory purchase, the compensation for which is by virtue of section fifty-seven of this Act to be assessed subject to the rule set out in subsection (1) of that section, is or comprises an interest in the whole of the land in a hereditament within the meaning of the War Damage Act, 1943, the value of which is required by that Act to be ascertained by reference to its state after war damage and to an assumed sale thereof, the value of the said land for the purposes of the ascertainment of the compensation for the purchase shall be taken to be such amount as may be certified by the War Damage Commission to be the value of the hereditament as ascertained as aforesaid (in this Schedule referred to as the "certified after-damage value" of that land), subject, however, to the two next succeeding sub-paragraphs.

(2) The preceding sub-paragraph shall not have effect if between the occurrence of the war damage and the time when the notice to treat is served the land in the hereditament has been brought into a state such as to make it capable of being as beneficially used while remaining in that state as it was immediately before the occurrence of the war damage.

(3) If the land in the hereditament has not been brought into such a state as aforesaid, but there is any material difference either—

- (a) between the state of the land in the hereditament after damage by reference to which the value thereof falls to be ascertained under the War Damage Act, 1943, and its state at the time when the notice to treat is served; or
- (b) between the incumbrances, if any, to which the said land was subject immediately after the occurrence of the war damage and the incumbrances, if any, to which it is subject at the time when the notice to treat is served, being incumbrances of a kind required by the said Act to be taken into account in ascertaining the value of the hereditament,

the value of the said land for the purposes of the ascertainment of the compensation for the purchase shall be taken to be the certified after-damage value thereof adjusted by adding, or by subtracting, as the case may require, the amount by which the value of the hereditament as required to be ascertained under the said Act would have been greater or

less if that value had fallen to be ascertained by reference to the state of the hereditament at the time when the notice to treat is served, and if it had been subject immediately after the occurrence of the war damage to all incumbrances of any such kind as aforesaid to which it is subject at the time when the notice to treat is served and to no other incumbrances of any such kind.

(4) Where this paragraph has effect as respects a purchase the subject of which comprises, but does not consist solely of, the interest in question in the land in the hereditament the compensation for the purchase shall be ascertained, and all statutory provisions relating to the ascertainment thereof or to the carrying out of the purchase or to matters connected therewith shall have effect, subject to any agreement between the purchasing authority and other parties concerned, as if the interest in question in that land had been purchased separately and separate notices to treat had been served accordingly, and had been served simultaneously.

Compensation for compulsory purchase of several interests in land to be ascertained in certain circumstances by apportionment of certified after-damage value thereof.

2.—(1) Where by virtue of paragraph 1 of this Schedule the value of the land comprised in a hereditament is to be taken for the purposes of the ascertainment of compensation to be its certified after-damage value (or that value as adjusted), and notices to treat have been served in respect of two or more interests in the whole of that land on the same date or within such period as may be fixed as respects that land under rules, the compensation to be paid for the purchase of each of those interests shall be ascertained in accordance with the following provisions of this paragraph.

(2) The amount representing the value of each of those interests as it would have fallen to be ascertained if this paragraph had not had effect in relation thereto shall be agreed, assessed or determined in accordance with the provisions of sub-paragraphs (3) to (7) of this paragraph, and the compensation to be paid for the purchase of each interest shall be the proportion of the certified after-damage value of the land, or of that value as adjusted, as the case may be, which the amount agreed, assessed or determined in respect of that interest bears to the aggregate of the amounts agreed, assessed or determined in respect of the several interests :

Provided that if the interests in question do not include all interests subsisting in the land at the date or at the expiration of the period aforesaid, an amount representing the value of any excluded interest, as it would have fallen to be ascertained if that interest had been purchased and this paragraph had not had effect in relation thereto, shall be agreed, assessed or determined in accordance with the said provisions and added to the said aggregate.

(3) If the values of the several interests in question and of any excluded interest are not otherwise agreed, the claimant in respect of each of the interests in question, and the purchasing authority as respects any excluded interest, shall cause an estimate of the value of that interest to be made and transmitted to an officer of the Valuation Office appointed by the Commissioners of Inland Revenue, and that officer shall, after considering the estimates, take steps in accordance with rules for securing if possible agreement between the claimants, and if there is any excluded interest, the purchasing authority, as to the value of each interest.

(4) In default of agreement as to the value of any interest the said officer shall make an assessment of the value of that interest.

(5) The costs of the employment by a claimant of a person skilled in valuation to advise or act for him for the purposes of either of the two last preceding sub-paragraphs on a purchase by a local or public authority within the meaning of the Acquisition of Land (Assessment of Compensation) Act, 1919, shall be paid by the authority.

(6) If any claimant, or, if there is any excluded interest, the purchasing authority, is aggrieved by an assessment made by the said officer, the claimant or the authority may in accordance with rules require the value of the interest dealt with by the assessment to be determined by one of the panel of arbitrators appointed under section one of the said Act of 1919.

(7) If in respect of any of the interests in question no claim is duly made within the time prescribed by rules, an independent person skilled in valuation may be appointed in accordance with rules to act for the purposes of sub-paragraphs (3) to (6) of this paragraph in respect of that interest, and those sub-paragraphs shall have effect as if all things done thereunder by the person so appointed had been duly authorised, by all persons concerned in respect of the interest in question, to be done by that person as agent for them.

(8) Where the last preceding sub-paragraph has had effect as respects any interest and the value thereof has been agreed or assessed under sub-paragraph (3) or (4) of this paragraph, if any person who would have been entitled but for this paragraph to have any question of disputed compensation in relation to that interest referred to arbitration in accordance with the said Act of 1919 shows in accordance with rules that the fact that no claim was made as aforesaid was not attributable to any default on his part, he may in accordance with rules require the value of that interest to be determined by one of the panel of arbitrators appointed under section one of the said Act of 1919, and if the compensation on the basis of the value of the interest as so determined is greater or less than the compensation on the basis of the value thereof as agreed or assessed as aforesaid, the difference shall be recoverable by the person entitled to the compensation from the purchasing authority or by the authority from him, as the case may be.

(9) The cost of any arbitration under sub-paragraph (6) or (8) of this paragraph, including any fees charges and expenses of the arbitration or award, shall be in the discretion of the official arbitrator, who may direct to and by whom and in what manner those costs or any part thereof shall be paid, and the official arbitrator may in any case disallow the costs of counsel.

(10) The amount of any costs that an authority are liable to pay by virtue of sub-paragraph (5) of this paragraph, or of any arbitration under sub-paragraph (6) or (8) thereof, shall be determined by reference to scales to be prescribed by the Treasury, and in case of difference as to the amount of any such costs they shall, if payable under sub-paragraph (5) of this paragraph, be taxed in such manner as the Treasury may direct, or, if payable under direction of an official arbitrator, be taxed by him or in such manner as he may direct.

Rules to give effect to preceding provisions of this Schedule.

3. Provision may be made by rules made by the Lord Chancellor, after consultation with the Reference Committee referred to in the Acquisition

of Land (Assessment of Compensation) Act, 1919, for giving effect to the provisions of the two preceding paragraphs, for prescribing anything thereby required to be determined by rules, and in particular, but without prejudice to the generality of the power conferred by this paragraph :—

- (a) for the determination of any question whether land has been brought into a state such as is mentioned in sub-paragraph (2) of paragraph 1 of this Schedule, of any question whether there is any such material difference as is mentioned in sub-paragraph (3) of that paragraph, and, in a case in which there is any such difference, how the certified after-damage value ought to be adjusted ;
- (b) for regulating the proceedings for the ascertainment of compensation, where the value of any land for the purposes of the ascertainment thereof is to be taken to be the certified after-damage value of the land (or that value as adjusted), so as to secure that the requisite certificate and particulars of any requisite adjustment may be rendered available for those purposes ;
- (c) for fixing the period referred to in sub-paragraph (1) of paragraph 2 of this Schedule within which, where a notice to treat has been served as respects an interest in the whole of the land in a hereditament, such a notice in respect of any other interest therein must be or have been served in order to render the provisions of that paragraph applicable to the ascertainment of the compensation to be paid for the purchase of those interests, and for securing, so far as may be practicable, that all such notices intended to be given as respects interests in the whole of the land in a hereditament shall be given within the period fixed ;
- (d) for specifying limits of time within which things required or authorised by paragraph 2 of this Schedule must be done, with or without power to persons designated by the rules to extend such limits ;

and references in paragraph 2 of this Schedule to rules shall be construed as references to rules made under this paragraph.

The Acquisition of Land (Assessment of Compensation) Rules, 1919

Dated December 2, 1919, made by the Reference Committee for England and Wales under the Acquisition of Land (Assessment of Compensation) Act, 1919.

S. R. & O., 1919, No. $\frac{1836}{L. 30.}$

In pursuance of the Acquisition of Land (Assessment of Compensation) Act, 1919, the Reference Committee for England and Wales constituted under that Act hereby make the following Rules :—

1. Short title.—These Rules may be cited as the Acquisition of Land (Assessment of Compensation) Rules, 1919.

2. Interpretation.—(1) In these Rules, unless the context otherwise requires :

The expression “ the Act ” means the Acquisition of Land (Assessment of Compensation) Act, 1919 :

The expression “ arbitrator ” means an official arbitrator :

The expression “ question ” means any question of disputed compensation, or any question of the apportionment of a rent which is to be referred to and determined by arbitration in manner provided by the Act.

(2) The Interpretation Act, 1889, applies for the purpose of the interpretation of these Rules as it applies for the purpose of the interpretation of an Act of Parliament.

3. Application for selection of official arbitrator.—(1) Where any question has arisen either the acquiring authority or the claimant may at any time after the expiration of fourteen days from the date on which the notice to treat was served send to the Reference Committee an application for the selection of an arbitrator.

(2) The acquiring authority or the claimant, as the case may be, shall, immediately after sending the application to the Reference Committee, send notice of the fact to the claimant or the acquiring authority, as the case may be, together with a copy of the application.

(3) An application for the selection of an arbitrator shall be in the form set out in the schedule to these Rules or in a form to the like effect.

4. Selection of official arbitrator.—(1) The Reference Committee, on receiving a valid application for the selection of an arbitrator, shall, as soon as may be, proceed to select from the panel an arbitrator to deal with the case.

(2) The Reference Committee shall, as soon as they have selected the arbitrator, inform the acquiring authority and the claimant of the name and address of the person so selected.

5. Consideration of questions by official arbitrator.—(1) The arbitrator selected shall, as soon as may be, proceed with the determination of the question in dispute, and shall arrange with the acquiring authority and the claimant the time and place of the hearing.

(2) The Reference Committee shall send to the arbitrator selected a copy of the application for the appointment of an arbitrator, and the acquiring authority and the claimant shall furnish to the arbitrator on his request any document or other information which it is in their or his power to furnish and which the arbitrator may require for the purpose of considering and determining the case.

(3) Subject to the provisions of the Act and of these Rules the proceedings before an arbitrator shall be such as the arbitrator, subject to any special directions of the Reference Committee, may in his discretion think fit.

6. Power to select another official arbitrator.—The Reference Committee may, in the case of the death or the incapacity of the arbitrator originally selected, or if it is shown to the Committee that it is expedient so to do, in any other case, at any time before the arbitrator has made his award, revoke the reference of the question to the selected arbitrator and select another arbitrator for the purpose of determining the question.

7. Consolidation of claims relating to several interests in the same land.—(1) Where notices to treat have been served for the acquisition of the several interests in the land to be acquired and questions as to the amount of compensation have arisen in the case of any two or more of those interests the acquiring authority may, subject as hereinafter provided, either on making the application for the selection of an arbitrator to hear the claims or at any time thereafter make an application to the Reference Committee to have the same person selected as the arbitrator to hear and determine all the claims to which the application relates :

Provided that no such application shall be made as respects a claim if an arbitrator has already entered on the consideration of the claim.

(2) On receiving an application under this Rule the Reference Committee shall select the same person to act as arbitrator in respect of all the claims to which the application relates, and so far as necessary for that purpose may revoke any selection previously made.

(3) An application under this Rule shall be in the form set out in the schedule to these Rules or in a form to the like effect.

(4) Where the same person has been selected under this Rule to act as arbitrator in respect of two or more claims the acquiring authority may at any time after he has been so selected apply to him for an order that all the claims shall be heard together.

(5) Notice of intention to apply to the arbitrator for such an order as aforesaid shall be sent to each claimant and the notice shall specify the date on which and the place at which the arbitrator will hear any objection which may be made to the application.

(6) If any claimant objects to have his claim heard together with the other claims he shall within seven days after the receipt of the notice aforesaid send notice of his objection to the acquiring authority and the arbitrator.

(7) Where the acquiring authority apply for an order under this Rule the arbitrator, after taking into consideration any objections made to the application, shall make such order in the matter as he thinks proper having regard to all the circumstances of the case.

(8) On an application for an order under this Rule an order for consolidation may be made if the arbitrator thinks fit with respect to some only of the claims, and the order may in any case be made subject to such special directions as to costs, witnesses, method of procedure, and otherwise as the arbitrator thinks proper.

8. Provision as to payment of fees prescribed by Treasury.—(1) If the fees prescribed by the Treasury in pursuance of the powers conferred on them by sub-section (6) of section three of the Act include a fee in respect of an application under these Rules or a fee in respect of the hearing before an official arbitrator, the prescribed fee shall be collected by means of adhesive stamps affixed to or stamps impressed on the application and the award of the arbitrator respectively.

(2) An application under these Rules which is not properly stamped in accordance with the foregoing provision shall be treated as invalid, and the award of an official arbitrator shall not be delivered out by him unless and until it has been properly stamped in accordance with the said provision.

9. Provision as to sending notice.—Any notice or other document required or authorised to be sent to any person for the purpose of these Rules shall be deemed to be duly sent by post addressed to that person at his ordinary address, and the address of the Reference Committee shall for this purpose be—J. Johnston, Esq., Secretary to the Reference Committee, Room 174, Royal Courts of Justice, Strand, London, W.C. 2.

10. Informalities not necessarily to invalidate proceedings.—Save as herein otherwise expressly provided, any failure on the part of any authority or any person to comply with the provisions of these Rules shall not render the proceedings, or anything done in pursuance thereof, invalid, unless the arbitrator so directs.

SCHEDULE.

A.

Form of Application for Selection of Official Arbitrator.

Acquisition of Land (Assessment of Compensation) Act, 1919.

Application for Selection of Official Arbitrator.

To the Reference Committee.

I, being the claimant [or, We, being the acquiring authority] specified in the annexed particulars, hereby apply for the selection, pursuant to the above Act, of an official arbitrator to hear and determine the question of which particulars are annexed.

*Signed.....

Date.....

* If the application is signed by an agent, add " by..... his [or their] agent."

Particulars.

Name and address of acquiring authority :

Name and address of acquiring authority's solicitor or agent :

Name and address of claimant :

Name and address of claimant's solicitor or agent :

Description of land to be acquired :

Situation of land to be acquired :

County.....

Parish

Nature of question (whether as to amount of compensation or apportionment of rent) :

Interest in respect of which compensation is claimed :

B.

FORM OF APPLICATION TO HAVE SAME PERSON APPOINTED AS ARBITRATOR ON CLAIMS
IN RESPECT OF VARIOUS INTERESTS IN SAME LAND.

Acquisition of Land (Assessment of Compensation) Act, 1919.

Application to have same person appointed as Arbitrator on Claims in respect of various interests in same land.

To the Reference Committee.

We, being the acquiring authority in the case of the land specified in the annexed particulars, apply, pursuant to the Rules made under the above Act, to have the same person selected as the official arbitrator to hear and determine all the claims for compensation made in respect of the several interests in the said land.

No official arbitrator has been selected in the case of any of the said claims [*or*, An official arbitrator has already been selected in the case of the claims of the persons numberedin the annex of particulars, namely, Mr.....in the case of No. 1.....
State the facts.]

*Signed.....

Date.....

*If the application is signed by an agent of the applicants, add " by.....
.....their agent."

Particulars.

Name and address of acquiring authority :

Name and address of acquiring authority's solicitor or agent :

Description of land to be acquired :

Situation of land to be acquired :

County.....

Parish

Nature of interest.

Names and addresses of (i) the persons entitled to the several interests in the land, and (ii) their respective solicitors or agents :

- | | | |
|----|------------|----|
| 1. | (i) | 1. |
| | (ii) | |
| 2. | (i) | 2. |
| | (ii) | |
| 3. | (i) | 3. |
| | (ii) | |

We, the Reference Committee for England and Wales under the Acquisition of Land (Assessment of Compensation) Act, 1919, have made the above rules in pursuance of the powers conferred on us by the said Act.

Reading, C.J.
Sterndale, M.R.
Andrew Young, P.S.I.

2nd December, 1919.

**The Acquisition of Land (Assessment of Compensation)
Fees Rules, 1931**

Dated March 20, 1931.

S. R. & O., 1931, No. 157.

In pursuance of subsection (6) of section three of the Acquisition of Land (Assessment of Compensation) Act, 1919, the Lords Commissioners of His Majesty's Treasury hereby make the following rules :—

1.—(1) These rules may be cited as the Acquisition of Land (Assessment of Compensation) Fees Rules, 1931.

(2) In these rules the expression " the Act " means the Acquisition of Land (Assessment of Compensation) Act, 1919.

2. On every application for the selection of an arbitrator made in accordance with the rules made under the Act by the Reference Committee there shall be paid the fee of £3, but in cases where an award is made by the official arbitrator £2 of this application fee shall be treated as having been paid on account of the fee payable under Rule 3 or Rule 4.

3.—(1) On an award made by an official arbitrator under the Act (other than awards made in terms of rent or other annual payment) there shall be paid a fee calculated by reference to the amount awarded to the claimant in accordance with the following scale :—

Scale of Fees on Awards.

<i>Amount awarded.</i>	<i>Amount of fee.</i>
Not exceeding £200	£5 5s.
Exceeding £200 but not exceeding £500	£5 5s. with an addition of £1 1s. in respect of every £50 or part of £50 by which the amount awarded exceeds £200.
Exceeding £500 but not exceeding £5,000	£11 11s. with an addition of £1 1s. in respect of every £100 or part of £100 by which the amount awarded exceeds £500.
Exceeding £5,000	£58 16s. with an addition of £1 1s. in respect of every £200 or part of £200 by which the amount awarded exceeds £5,000 but not exceeding in any case £262 10s.

(2) In addition to the fee payable under the scale aforesaid, there shall, where the hearing before the arbitrator in respect of any claim or matter referred to him occupies more than one day, be paid for each day or part of a day after the first day a further fee on the following scale :—

<i>Amount awarded.</i>	<i>Amount of fee.</i>
	£ s.
Not exceeding £500	5 5
Exceeding £500 and not exceeding £1,000	10 10
Exceeding £1,000 and not exceeding £5,000	15 15
Exceeding £5,000 and not exceeding £10,000	21 0
Exceeding £10,000 and not exceeding £15,000	31 10
Exceeding £15,000 and not exceeding £20,000	42 0
Exceeding £20,000	52 10

4. Where the award of an official arbitrator under the Act is an award in terms of rent or other annual payment, the following scales of fees shall be substituted for the scales set forth in Rule 3 (1) and Rule 3 (2) of these rules:—

(1)

<i>Amount awarded.</i>	<i>Amount of fee.</i>
Not exceeding £10 per annum .	£5 5s.
Exceeding £10 per annum but not exceeding £25 per annum	£5 5s. with an addition of £1 1s. in respect of every £2 10s. or part of £2 10s. by which the rent, etc., awarded exceeds £10 per annum.
Exceeding £25 per annum but not exceeding £250 per annum	£11 11s. with an addition of £1 1s. in respect of every £5 or part of £5 by which the rent, etc., awarded exceeds £25 per annum.
Exceeding £250 per annum	£58 16s. with an addition of £1 1s. in respect of every £10 or part of £10 by which the rent, etc., awarded exceeds £250, but not exceeding in any case £262 10s.

(2) In addition to the fee payable under the scale aforesaid, there shall, where the hearing before the arbitrator in respect of any claim or matter referred to him occupies more than one day, be paid for each day or part of a day after the first day a further fee on the following scale:—

<i>Amount awarded.</i>	<i>Amount of fee.</i>	
	£	s.
Not exceeding £25 per annum	5	5
Exceeding £25 per annum and not exceeding £50 per annum	10	10
Exceeding £50 per annum and not exceeding £250 per annum	15	15
Exceeding £250 per annum but not exceeding £500 per annum	21	0
Exceeding £500 per annum but not exceeding £750 per annum	31	10
Exceeding £750 per annum but not exceeding £1,000 per annum	42	0
Exceeding £1,000 per annum	52	10

NOTE

The fees prescribed in the above scale are in addition to the stamp duty charged on awards by section 9 of the Revenue Act, 1906 (16 Halsbury's Statutes 735).

5. For the purpose of the provisions under Rule 3 (2) and Rule 4 (2) any time spent by the arbitrator in viewing any land which is the subject matter of the proceedings before him shall be treated as part of the hearing. A day shall be taken to be a working period of five hours.

6. These Rules shall come into operation on the 1st day of April, 1931.

The Acquisition of Land (Assessment of Compensation) Fees Rules, 1920 (a), and the Acquisition of Land (Assessment of Compensation) Fees No. 2 Rules, 1920 (b), are hereby revoked except that they shall apply in the case of all valid applications for the selection of an arbitrator under the Act received by the Reference Committee prior to the 1st April, 1931.

7. These Rules shall not apply to Northern Ireland.

Dated 20th March, 1931.

ERNEST THURTLÉ,
CHARLES EDWARDS,

Two of the Lords Commissioners of His Majesty's Treasury.

NOTES

(a) S. R. & O., 1919 (1920, No 285).

(b) S. R. & O., 1919 (1920, No 690).

The Acquisition of Land (Valuation for Supplemental Compensation) Regulations, 1945

Dated March 31st, 1945, made by the Treasury under section 60 (2) of the Town and Country Planning Act, 1944 (7 & 8 Geo. 6, c. 47).

S. R. & O., 1945, No. 370.

The Lords Commissioners of His Majesty's Treasury, in exercise of the powers conferred on Them by subsection (2) of section sixty of the Town and Country Planning Act, 1944, and of all other powers enabling Them in that behalf, hereby make the following regulations :—

1. Short title and interpretation.—(1) These regulations may be cited as the Acquisition of Land (Valuation for Supplemental Compensation) Regulations, 1945.

(2) The Interpretation Act, 1889, applies for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

2. Valuation of buildings : supplement to compensation for acquisition of fee simple.—For the purposes of paragraph (a) of subsection (2) of section fifty-eight of the Town and Country Planning Act, 1944 (which provides that the maximum for the sum payable under that section in respect of an interest in land as consisting of or comprising a building (not being agricultural property) shall, where the interest in question is the fee simple, be thirty per cent. of the value of the building ascertained by reference to prices current at the thirty-first day of March, nineteen hundred and thirty-nine) the value, ascertained by reference to such prices as aforesaid, of the building or buildings (not being agricultural property) being, or comprised in, land in respect of an interest in which a notice to treat has been served shall be taken to be the difference between the two following values, that is to say—

- (a) the value of the said land ascertained by reference to those prices on the assumption that the land had been subject to a permanent prohibition of any development other than the replacement of buildings thereon at the time of service of the notice to treat by buildings of the same character and designed for use in the same manner as the buildings replaced, and having a cubic content no greater than that of the buildings replaced ; and
- (b) the value of the said land, ascertained by reference to those prices on the assumption that any building (not being agricultural property) thereon at the time of service of the notice to treat had not been on the land, and that the land had been subject to a permanent prohibition of any development other than the erection or replacement thereon of buildings of the same character, and designed for use in the same manner, as the buildings thereon at the time of service of the notice to treat, and having a cubic content no greater than that of those buildings.

3. Valuation of buildings : supplement to compensation for acquisition of tenancy.—(1) For the purposes of paragraph (b) of the said section fifty-eight (which provides that the maximum for the sum payable under that section in respect of an interest in land as consisting of or comprising a building (not being agricultural property) shall, where the interest in question is a tenancy, be the amount by which the value of the tenancy in the building ascertained by reference to prices current at the thirty-first day of March, nineteen hundred and thirty-nine, falls short of the value of the tenancy in the building ascertained by reference to prices thirty per cent. greater than those current at that date) the value, ascertained by reference to any such prices as aforesaid, of the tenancy in the building or buildings

(not being agricultural property) being, or comprised in, land in respect of a tenancy in which a notice to treat has been served shall be taken to be the amount (if any) by which—

- (a) the annual value, as ascertained by reference to those prices respectively, of the building or buildings, exceeds
- (b) the rent payable in respect of the building or buildings,

capitalised at such number of years' purchase as appears appropriate having regard to the period which the tenancy had still to run at the time of service of the notice to treat and other circumstances.

(2) The annual value mentioned in sub-paragraph (a) of the preceding paragraph, as ascertained by reference to the prices therein mentioned respectively, shall be taken to be the difference between—

- (a) the annual value of the land in respect of the tenancy in which the notice to treat was served, ascertained (by reference to those prices respectively) on the like assumption as under paragraph (a) of regulation 2 of these regulations, and
- (b) the annual value of the said land, ascertained (by reference to those prices respectively) on the like assumption as under paragraph (b) of that regulation.

(3) The rent maintained in sub-paragraph (b) of paragraph (1) of this regulation shall be taken to be the difference between the rent reserved in respect of the tenancy for the period in which the time of service of the notice to treat fell (or, if that period is other than a year, the annual equivalent thereof) and the annual value of the said land, ascertained by reference to prices current at the thirty-first day of March, nineteen hundred and thirty-nine on the like assumption as under paragraph (b) of regulation 2 of these regulations.

Provided that where the rent reserved as aforesaid is greater by any amount than it would otherwise have been by reason of the landlord undertaking to bear any tenant's rates or any of the cost of the repairs and insurance and other expenses, if any, necessary to maintain the land in a state to command that rent, or by reason of the landlord rendering or providing, or procuring to be rendered or provided, any services or goods, then for the purposes of this paragraph the rent reserved as aforesaid shall be taken to be reduced by the said amount.

4. Valuation of buildings: provision where interest subsists in part of a building.—In the application of either of the two last preceding regulations to land consisting of or comprising a part only of a building, the value or annual value, as the case may be, mentioned in paragraph (b) of regulation 2, or sub-paragraph (b) of paragraph (2) of regulation 3, of these regulations shall be taken to be an amount which bears to the value or annual value of the said land together with the remainder of the building and the curtilage thereof, ascertained by reference to the prices and on the assumption mentioned in the said paragraph or sub-paragraph, as the case may be, the same proportion as the value or annual value of the said land, ascertained by reference to the said prices and on the assumption mentioned in paragraph (a) of the said regulation 2, or sub-paragraph (a) of paragraph (2) of the said regulation 3, as the case may be, bears to the value or annual value of the said land together with the remainder of the building and the site thereof, ascertained as last mentioned.

5. Supplementary provisions relating to preceding regulations.—

(1) For the purposes of regulations two and four of these regulations the value of land shall be taken to be the amount which the land might be expected to realise on a sale by a willing seller in the open market with vacant possession, and subject to—

- (a) any restrictive covenant, easement, quasi-easement, or other right enuring for the benefit of other land,

- (b) any public right of way, right of common, or other right enuring for the benefit of the public or any class thereof, and
- (c) any restriction imposed by or under any enactment, to which the land was subject at the time of service of the notice to treat,

but free from any other incumbrance.

(2) For the purposes of regulations three and four of these regulations the annual value of land, ascertained on any assumption, shall be taken to be the annual rent which a tenant might reasonably be expected to pay for the land for such term as he might on that assumption reasonably be expected to take, and if he undertook to pay all usual tenant's rates and taxes and to bear the cost of the repairs and insurance and the other expenses, if any, necessary to maintain the land in a state to command that rent, and if the land were available with vacant possession, subject to any such incumbrance as is mentioned in sub-paragraphs (a) to (c) of the preceding paragraph, but free from any other incumbrance.

(3) Notwithstanding anything in paragraph (1) of this regulation, where at the time of service of the notice to treat land was subject to a tenancy, not being a tenancy under which the person claiming the supplement to compensation was the tenant, such reduction shall be made in the value in question as appears appropriate.

(4) In the application of regulation 2 or 3 of these regulations to land which has sustained war damage to a building thereon any of which has not been made good at the time of service of the notice to treat, the effect of the assumed prohibition of development mentioned in paragraphs (a) and (b) respectively of the said regulation 2 shall be calculated as if the building has been on the land at the time of service of the notice to treat in the state in which it was immediately before the occurrence of the damage.

(5) Rules (3) and (4) of the rules set out in section two of the Acquisition of Land (Assessment of Compensation) Act, 1919, shall, with the necessary modifications, have effect in relation to any ascertainment of value or annual value to be made for the purposes of the preceding regulations.

(6) For the purposes of these regulations the application to any land acquired of the Rent and Mortgage Interest Restrictions Acts, 1920 to 1939, shall be disregarded.

6. Valuation of interests for supplement for agricultural property.

—In making, for the purposes of subsection (3) of section fifty-eight of the Town and Country Planning Act, 1944 (which provides that the maximum for the sum payable under that section in respect of an interest in land as consisting of or comprising agricultural property shall be the amount (if any) by which the value of the interest ascertained by reference to prices current at the thirty-first day of March, nineteen hundred and thirty-nine, falls short of its value ascertained by reference to prices thirty per cent. greater and on the assumption that the property had been restricted to agricultural use) any valuation of an interest—

- (a) it shall be assumed that the interest had at the said thirty-first day of March, been subsisting as it was in fact subsisting at the time of service of the notice to treat; and
- (b) rules (2) to (4) of the rules set out in section two of the Acquisition of Land (Assessment of Compensation) Act, 1919, shall have effect.

Dated the 31st March, 1945.

L. R. Pym,
William John,
Two of the Lords Commissioners
of His Majesty's Treasury.

The Acquisition of Land (Owner-Occupier) Regulations, 1945

Dated June 18th, 1945, made by the Lord Chancellor under section 58 (6) of the Town and Country Planning Act, 1944 (7 & 8 Geo. 6, c. 47.)

S. R. & O., 1945, No. 759/L. 12.

Whereas it is provided by sub-section (5) of section 58 of the Town and Country Planning Act, 1944, that the person entitled to compensation for the purchase of an interest in land consisting of or comprising a building or agricultural property (hereinafter referred to as "the person entitled to compensation") shall be deemed for the purposes of Part II of that Act to be an owner-occupier if any of the following conditions are satisfied, and not otherwise, that is to say :—

- (a) if he is in occupation of the building or property at the time of service of the notice to treat ;
- (b) in the case of a building or property so damaged at that time as not to be fit for occupation, if he was in occupation thereof when the damage occurred ;
- (c) in the case of a building or property of which possession has been taken without other title by virtue of any enactment, or by an authority by whom, and in circumstances in which, possession thereof could have been so taken, and has not been given up before that time, if he was in occupation thereof when possession was so taken ; or
- (d) if—
 - (i) the title under which the building or property is held at that time is such that he then has the right to enter into occupation thereof or will be in a position to obtain that right within five years from that time ; and
 - (ii) it was at that time his intention, subject to its being possible for him so to do, to enter into occupation of the building or property within the said five years, or, if it is so damaged as not to be fit for occupation, to cause it to be restored for his occupation, or to enter into occupation of premises to be substituted therefor, within the said five years :

And whereas it is provided by sub-section (6) of the said section 58 that for the purposes of the said sub-section (5) references to the person entitled to compensation shall, where that person holds as trustee or otherwise for the benefit of another, or subject to the directions of another, be construed subject to such adaptations as may be prescribed by Regulations made by the Lord Chancellor.

Now, therefore, I, John Viscount Simon, Lord High Chancellor of Great Britain, in exercise of the powers conferred on me by the said sub-section, and of all other powers enabling me in this behalf, hereby make the following Regulations :—

1. Sub-section (5) of Section 58 of the Town and Country Planning Act, 1944, shall in relation to land of the classes or descriptions specified in the first column of the Schedule to these Regulations (being land consisting of or comprising a building or agricultural property) have effect as if—

- (a) for references in paragraphs (a) (b) or (c) of that sub-section to the person entitled to compensation there were substituted references to any such person as is specified in relation to land of that class or description in the Second Column of the said Schedule ; and
- (b) for references in paragraph (d) (i) of that sub-section to the person entitled to compensation there were substituted references to the persons specified in relation to land of that class or description in the Third Column of the said schedule ; and

- (c) for references in paragraph (d) (ii) of that sub-section to the person entitled to compensation there were substituted references to any such person as is specified in relation to land of that class or description in the Fourth Column of the said Schedule.

2.—(1) In these Regulations—

- (a) The expressions “bankruptcy,” “defective” and “trust for sale” have the same meanings as in section 205 (1) of the Law of Property Act, 1925; the expressions “settled land” and “settlement” have the same meaning as in section 117 (1) of the Settled Land Act, 1925; and the expression “ecclesiastical property” has the same meaning as in section 52 (3) of the Town and Country Planning Act, 1944.
- (b) References to persons occupying the land pursuant to the trusts or powers of a settlement or trust, or to persons who would have been entitled to possession or who could have been permitted to occupy pursuant to such trusts or powers if administration of an estate had been completed, and to persons for whose benefit land is held, shall be deemed to include :—
- (i) the assignees (other than a person deriving his interest by virtue of a bankruptcy or a deed of arrangement) of any such persons; and
- (ii) persons whose occupation or benefit derives from the exercise or existence of a discretionary power.
- (c) References to any enactment shall be construed as references to that enactment as amended by any subsequent enactment.
- (2) The Interpretation Act, 1889, applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

3. These Regulations may be cited as the Acquisition of Land (Owner-Occupier) Regulations, 1945.

Dated the 18th day of June, 1945.

Simon, C.

SCHEDULE

I. Class or description of land	2. <i>Paragraphs (a), (b), (c).</i> Persons by whom occupation must be or have been, had	3. <i>Paragraph (d) (i).</i> Persons having the right to occupy	4. <i>Paragraph (d) (ii).</i> Persons by whom an intention to occupy or restore, etc. may be shown
Settled Land and ecclesiastical property (other than settled land).	Any beneficiary under the settlement occupying pursuant to the trusts or powers of the settlement; in the case of land held on or for charitable, ecclesiastical or public trusts or purposes, any person occupying the land on or for those trusts or purposes.	The persons in whom the interest in the land is vested, and all the persons interested under the trusts affecting that interest or for whose benefit, or subject to whose directions, it is held, whether acting collectively or singly, or in any combination of two or more of such persons (any obstacle to their so acting arising by reason of all or any of them being unborn or under incapacity being disregarded)	Any person interested under the trusts of the settlement; and, where any such person is an infant, or a person of unsound mind or a defective, the guardian, the receiver or committee as the case may be; and where the land is vested in the official trustee of charity lands or in persons holding as bare trustees on or for charitable, ecclesiastical or public trusts or purposes, or comprises ecclesiastical property other than settled land, the managing trustees and the committee of management or other occupier, or person permitted to occupy on or for those trusts or purposes.
Land held upon trust for sale.	Any beneficiary under the trusts subject to which the land is held, being a person occupying by virtue of permission granted pursuant to the trusts or powers of the trust, and, in the case of land held on or for charitable, ecclesiastical or public trusts or purposes, any persons occupying the land on or for those trusts or purposes.	The persons in whom the interest in the land is vested, and all the persons interested under the trusts affecting that interest or for whose benefit, or subject to whose directions, it is held, whether acting collectively or singly, or in any combination of two or more of such persons (any obstacle to their so acting arising by reason of all or any of them being unborn or under incapacity being disregarded).	Any person interested under the trusts subject to which the land is held; and, where any such person is an infant, or a person of unsound mind or a defective, the guardian, the receiver or committee, as the case may be; and, where the land is vested in the official trustee of charity lands or in persons holding as bare trustees for charitable, ecclesiastical or public purposes, or comprises ecclesiastical property other than settled land the managing trustees and the committee of management or other occupier, or person permitted to occupy on or for those trusts or purposes.

<p>I. Class or description of land.</p>	<p>2. <i>Paragraphs (a), (b), (c).</i> Persons by whom occupation must be or have been, had</p>	<p>3. <i>Paragraph (d) (i).</i> Persons having the right to occupy</p>	<p>4. <i>Paragraph (d) (ii).</i> Persons by whom an intention to occupy or restore, etc. may be shown.</p>
<p>Land which has devolved upon, and is still vested in, a Legal Personal Representative, or the President of the Probate, Divorce and Admiralty Division of the High Court.</p>	<p>The testator or intestate; any person who, if administration of the estate of which the land forms part had been completed, would have been entitled to possession under the will or intestacy or could have been permitted to occupy by virtue of permission granted pursuant to powers derived from or under the will or intestacy.</p>	<p>The persons in whom the interest in the land is vested and all the persons interested under the trusts affecting that interest or for whose benefit, or subject to whose direction, the land would be held if administration had been completed, whether acting collectively or singly, or in any combination of two or more of such persons (any obstacle to their so acting arising by reason of all or any of them being unborn or under incapacity being disregarded).</p>	<p>Any beneficiary under the will or intestacy; and, where any such person is an infant, or a person of unsound mind or a defective, the guardian, the receiver or the committee, as the case may be.</p>
<p>Land not comprised within any of the foregoing classes or descriptions, being land held for the benefit of another or subject to the directions of another, but not including land which has vested in a trustee in bankruptcy at the date of the service of notice to treat.</p>	<p>The person in whom the interest in the land is vested or any person for whose benefit, or subject to whose directions, the land is held.</p>	<p>The persons in whom the interest in the land is vested and any person for whose benefit, or subject to whose directions, that interest is held, whether acting collectively or singly, or in any combination of two or more of such persons (any obstacle to their so acting arising by reason of all or any of them being unborn or under incapacity being disregarded).</p>	<p>The person in whom the interest in the land is vested or any person for whose benefit, or subject to whose directions, the land is held; and, where any such person is an infant or a person of unsound mind or a defective, the guardian, the receiver, or the committee, as the case may be.</p>

The Acquisition of Land (Compensation for War Damaged Land) Rules

(Dated September 28th, 1945, made by the Lord Chancellor under the Eighth Schedule to the Town and Country Planning Act, 1944 (7 & 8 Geo. 6, c. 47)).

S. R. & O., 1945, No. 1216/L. 19.

I, William Allen Baron Jowitt, Lord High Chancellor of Great Britain, after consultation with the Reference Committee for England and Wales constituted under the Acquisition of Land (Assessment of Compensation) Act, 1919, and in exercise of the powers conferred upon me by the Eighth Schedule to the Town and Country Planning Act, 1944, do hereby make the following Rules.

PART I.

Citation and Interpretation.

1. These Rules may be cited as the Acquisition of Land (Compensation for War Damaged Land) Rules, 1945.

2.—(1) In these Rules the following expressions have the meanings herein-after respectively assigned to them, that is to say :

- (a) " the Act " means the Town and Country Planning Act, 1944 ;
- (b) " The Act of 1919 " means the Acquisition of Land (Assessment of Compensation) Act, 1919 ;
- (c) " an arbitrator " means a member of the panel of official arbitrators appointed under Section 1 of the Act of 1919 ;
- (d) " the Commission " means the War Damage Commission ;
- (e) " hereditament " has the meaning assigned to it by Section 5 (1) of the War Damage Act, 1943 ;
- (f) " the Eighth Schedule " means the Eighth Schedule to the Act ;
- (g) " claimant " means, in relation to interests in a hereditament, any person having an interest in the whole of the land in the hereditament, being an interest in respect of which a notice to treat has been served ;
- (h) " the Reference Committee " means the Reference Committee for England and Wales constituted under the Act of 1919 ;
- (i) " the valuation officer ", in relation to interests in a hereditament, means any officer of the Valuation Office appointed by the Commissioners of Inland Revenue for the purpose of paragraph 2 of the Eighth Schedule.

(2) Words in these Rules importing a reference to service of a notice to treat shall be construed as including a reference to the constructive service of such a notice which, by virtue of the Sixth Schedule to the Act or of any other enactment, is to be deemed to be served.

(3) The Interpretation Act, 1889, applies for the purpose of the interpretation of these Rules as it applies for the purpose of the interpretation of an Act of Parliament.

PART II.

Determination of questions as to whether compensation on compulsory purchase is to be certified after-damage value of the land and as to adjustment of such value.

3. Where the subject of a compulsory purchase, the compensation for which is by virtue of Section 57 of the Act to be assessed subject to the rule set out in sub-section (1) of that Section, is or comprises an interest in the whole of the land in a hereditament the value of which is required by the War Damage Act, 1943, to be ascertained by reference to its state after war

damage and to an assumed sale thereof, any question raised by a claimant or by the purchasing authority

- (a) whether between the occurrence of the war damage and the time when the notice to treat is served the land in the hereditament has been brought into a state such as to make it capable of being as beneficially used while remaining in that state as it was immediately before the occurrence of the war damage, or
- (b) if the land has not been brought into such a state as aforesaid, whether there is any material difference either
 - (i) between the state of the land in the hereditament after damage by reference to which the value thereof falls to be ascertained under the War Damage Act, 1943, and its state at the time when the notice to treat is served, or
 - (ii) between the incumbrances, if any, to which the land was subject immediately after the occurrence of the war damage and the incumbrances, if any, to which it is subject at the time when the notice to treat is served (being incumbrances of a kind required by the said Act to be taken into account in ascertaining the value of the hereditament)

shall, subject to and in accordance with the provisions of these Rules, be determined by the Commission.

4.—(1) If a claimant desires that any such question as is mentioned in Rule 3 hereof shall be determined he may within 28 days after the date of service of the notice to treat in respect of his interest notify the purchasing authority to that effect and, on receipt of any such notification, the purchasing authority shall serve a copy thereof on the Commission together with particulars of the names and addresses of the claimants then known to the authority.

(2) If the purchasing authority desires that any such question as is mentioned in Rule 3 hereof shall be determined it may within 28 days after the date of service of the first notice to treat in respect of an interest in the land notify the Commission that it requires the Commission to determine any such question as aforesaid. Any notification by the purchasing authority shall contain particulars of the names and addresses of every claimant then known to the authority.

(3) The Commission may from time to time extend the said period of 28 days and an extension may be granted although the application is not made until after the said period, or any extension thereof, has expired, or until a certificate has been issued under sub-rule (1) of Rule 6 hereof in default of reference to them of any question under Rules 3 and 4 hereof.

5.—(1) Upon the Commission being required to determine any question under the last foregoing Rule the following provisions shall have effect, that is to say :—

- (a) the Commission shall, as soon as may be, give notice to the purchasing authority and every claimant whose name and address has been notified to them under the last foregoing Rule of the period (which shall not be less than 21 days after the date of the Commission's notice) at the expiration of which they will proceed to determine the question referred to them ;
- (b) the purchasing authority and any such claimant may during that period submit to the Commission written representations relating to the question to be determined ;
- (c) the Commission shall consider any representations submitted to them under paragraph (b) ;
- (d) the Commission may, if they consider it desirable to do so for the purpose of making their determination,
 - (i) require the purchasing authority and every such claimant to furnish to them any document or other information which it, or he, has power to furnish,

- (ii) direct that an inquiry be held before such person (whether an officer of the Commission or not) as they may appoint for the purpose who shall make a report to the Commission ;
- (e) in the event of the Commission directing the holding of an inquiry, the person appointed to hold the inquiry shall fix the time and place thereof and shall notify the purchasing authority and every such claimant of the time and place so fixed in order that they may appear or be represented thereat ;
- (f) not more than one expert witness shall be heard at any inquiry on behalf of the purchasing authority or any such claimant unless the person holding the inquiry otherwise directs ;
- (g) the Commission, after considering any representations submitted to them as aforesaid and the report of any inquiry directed by them to be held, shall make their determination ;
- (h) the Commission shall give the purchasing authority a certificate recording their determination and the purchasing authority shall forthwith serve a copy of the certificate on every claimant.

(2) Subject to the preceding provisions of this Rule, the Commission shall have power to regulate their own procedure, including the manner in which, and the officers of the Commission by whom, questions subject to determination by the Commission under these Rules are to be determined and the manner in which determinations made by officers in any locality are to be subject to review by a deputy commissioner or other superior officer or by members of the Commission .

(3) If any claimant notified by the Commission under sub-rule (1) (a) of Rule 5 hereof in connection with the determination of any such question as is mentioned in Rule 3 hereof or the purchasing authority is aggrieved by the determination of the question, he may appeal therefrom on any question of law to the Judge of the High Court for the time being nominated by the Lord Chancellor for the purposes of the War Damage Act, 1943.

(4) The determination by the Commission of any such question as is mentioned in Rule 4 hereof shall become final as between the purchasing authority and every claimant notified by the Commission under sub-rule (1) (a) of Rule 5 hereof in connection with that determination.

- (a) in a case where no appeal against the determination is brought, on the date when the period within which such an appeal may be brought expires, and
- (b) in a case where such an appeal is brought on the date when the appeal, or (if there is more than one) the last such appeal, is finally determined or abandoned or the date when the period within which such an appeal may be brought expires, whichever is the later.

6.—(1) Where the determination of any question referred to the Commission under Rules 3 and 4 hereof has become final or, if neither a claimant nor the purchasing authority has referred any question to be determined under those Rules, the period prescribed under Rule 4 has expired the purchasing authority or any claimant may request the Commission to furnish to the purchasing authority a certificate stating the certified after-damage value of the land and the Commission shall furnish such certificate as soon as they are in a position to do so.

(2) If at any time after the Commission have furnished a certificate stating the certified after-damage value of any land a question is referred to them in respect of that land under Rules 3 and 4 hereof the Commission may cancel or amend their certificate as the case may require and in that event shall notify the purchasing authority of the cancellation or amendment.

(3) The purchasing authority on receipt of any such certificate or of notification of any cancellation or amendment thereof shall forthwith serve a copy on every claimant.

7.—(1) If there is any such material difference as is mentioned in Rule 3 (b) hereof any question how the certified after-damage value ought to

be adjusted in accordance with the provisions of sub-paragraph (3) of paragraph 1 of the Eighth Schedule shall, subject to and in accordance with these Rules, be determined by an arbitrator or other person or tribunal selected in accordance with the provisions of the First Schedule to these Rules.

(2) If the purchasing authority and all the claimants have agreed, or the Commission have made a determination (which has become final), that there is any such material difference as aforesaid but at the expiration of 30 days thereafter the purchasing authority and all the claimants have not agreed how the certified after-damage value ought to be adjusted as aforesaid, the purchasing authority or any claimant may, by giving notice of reference to the Reference Committee within a further period of 30 days, require the question to be referred for determination to an arbitrator or other person or tribunal selected in accordance with the provisions of the First Schedule to these Rules.

8. In a case where the land is comprised in an order providing for expedited completion the duty of the purchasing authority to serve a copy of any notification or certificate on every claimant shall be discharged by serving a copy on every person who has given information to the authority in relation to the land pursuant to such invitation as is mentioned in paragraph 2 of the Sixth Schedule to the Act.

9.—(1) Where an arbitrator has been selected under the Acquisition of Land (Assessment of Compensation) Rules, 1919, to determine any question of disputed compensation relating to land, or an interest in land, which is or comprises the whole of the land in a hereditament the value of which is required by the War Damage Act, 1943, to be ascertained by reference to its state after war damage and to an assumed sale thereof, any person interested in the determination of that question or the purchasing authority may apply to the arbitrator for a stay or discontinuance of proceedings under the said Rule so far as they relate to the land to which the Eighth Schedule may apply.

(2) If the arbitrator on any such application is satisfied that the Eighth Schedule may apply for the purposes of the ascertainment of the compensation for the purchase of the land in question or any part thereof and that either the Commission's certificate as to the after-damage value of the land to which the Eighth Schedule may apply has not been furnished or any such question as is mentioned in Rule 3 or 7 hereof has been referred for determination, all proceedings under the said Acquisition of Land (Assessment of Compensation) Rules, 1919, shall, so far as they relate to the land to which the Eighth Schedule may apply, be stayed until the Commission have furnished their certificate or, as the case may be, the determination has become final.

(3) The person in whose favour a stay is granted under the last foregoing sub-rule shall forthwith upon receiving a copy of the Commission's certificate or notice of the determination notify the arbitrator thereof.

(4) If the arbitrator is satisfied that by virtue of paragraph 1 of the Eighth Schedule the value of the land comprised in a hereditament is to be taken for the purposes of the ascertainment of compensation to be its certified after-damage value (or that value as adjusted) and notices to treat have been served in respect of two or more interests in the whole of that land on the same day or within the period fixed under Rule 11 hereof, all proceedings under the said Acquisition of Land (Assessment of Compensation) Rules, 1919, relating to the compensation to be paid for the purchase of each of those interests shall be discontinued.

PART III.

Provisions relating to ascertainment of compensation for compulsory purchase of several interests in land by apportionment of certified after-damage value thereof.

10. The purchasing authority shall, before serving a notice to treat as respects any interest in the whole of the land in a hereditament, have regard

to any other such interest and shall, as far as may be practicable, arrange that notices to treat in respect of any such other interests which it is intended to acquire compulsorily shall be served on the same day as the notice in respect of the first-mentioned interest or within sixty days thereafter and shall contain, or be accompanied by, notification of the date of service of the notice in respect of the first-mentioned interest.

11. The period referred to in sub-paragraph (1) of paragraph 2 of the Eighth Schedule within which, where a notice to treat has been served as respects an interest in the whole of the land in a hereditament, such a notice in respect of any other interest therein must be or have been served in order to render the provisions of that paragraph applicable to the ascertainment of the compensation to be paid for the purchase of those interests shall be 60 days after the date of service of the first-mentioned notice to treat.

12.—(1) Where the value of the land comprised in a hereditament is to be taken for the purposes of the ascertainment of compensation for the compulsory purchase thereof to be its certified after-damage value (or that value as adjusted) and notices to treat have been served in respect of two or more interests in the whole of that land on the same day or within the period fixed under Rule 11 hereof, the following provisions shall have effect, that is to say :—

- (a) every claimant and the purchasing authority, as respects any excluded interest, shall use their best endeavours to agree the value of the respective interests and upon agreement being reached every claimant, if the purchasing authority is not a party to the agreement, shall notify the purchasing authority of the value agreed in respect of his and all the other interests ;
- (b) if the values are not agreed within 60 days after the date of the Commission's certificate of the after-damage value, any claimant, or the purchasing authority as respects any excluded interest, may cause, and any claimant, if so requested by the purchasing authority, shall cause, an estimate of the value of his interest or the excluded interest, as the case may be, to be made and transmitted to the valuation officer ;
- (c) if an estimate of the value of any interest is made and transmitted to the valuation officer under paragraph (b) of this Rule a copy of the estimate shall at the same time be sent by the person at whose instance the estimate was made to the other interested parties and any claimant to whom such copy is sent and the purchasing authority as respects any excluded interest shall within 21 days of the receipt thereof, if he has not already done so, cause an estimate of the value of his interest, or of any excluded interest, as the case may be, to be made and transmitted to the valuation officer and at the same time send a copy of the estimate to the other interested parties ;
- (d) every estimate shall be accompanied by particulars of :—
 - (i) the nature of the interest,
 - (ii) any leases, tenancies, incumbrances, charges, easements or restrictions affecting the interest so far as known,
 - (iii) the matters in dispute,
 - (iv) the manner of calculating, and the evidence supporting, the estimated value of the interest ;
- (e) if in respect of any interest no claim is duly made within 21 days after the date of the Commission's certificate of the after-damage value the purchasing authority may appoint an independent person skilled in valuation to act for the purpose of sub-paragraphs (3) to (6) of paragraph 2 of the Eighth Schedule in respect of that interest and in that event
 - (i) the purchasing authority shall notify the claimant in respect of every other interest of the appointment of that person, and

- (ii) the provisions of these Rules shall have effect as if all things done under this and the next two following Rules by the person so appointed had been duly authorised by all persons concerned in respect of the interest in question to be done by that person as agent for them.

(2) For the purposes of paragraph (c) of sub-rule (1) of this Rule the other interested parties to whom a copy of the estimate is to be sent are

- (i) in the case of an estimate by a claimant, the other claimants and the purchasing authority, and
- (ii) in the case of an estimate by a purchasing authority as respects an excluded interest, all the claimants.

(3) If the Commission under Rule 6 (2) hereof amend a certificate of the after-damage value of any land the periods prescribed in paragraphs (b) and (e) of sub-rule (1) of this Rule shall, in relation to that land or any interests therein, run from the date of the original certificate.

13.—(1) The valuation officer shall, after considering the estimates transmitted to him, require the claimants and, if there is any excluded interest, the purchasing authority, or their respective representatives, to attend a meeting at his office or at some other convenient place to be selected by him.

(2) The valuation officer shall give the claimants and, if there is any excluded interest, the purchasing authority not less than three weeks' notice of the intended meeting.

(3) The valuation officer shall at the meeting use his best endeavours to secure agreement between the parties as to the values of the various interests but, if after the meeting he comes to the conclusion that agreement cannot be reached, he shall proceed as soon as may be to make assessments of the value of each interest the value of which has not been agreed between the parties and shall transmit a copy of his assessment of each such interest to all the persons concerned.

(4) The valuation officer may proceed to make an assessment of the value of an interest under the last foregoing sub-rule notwithstanding that no estimate of the value of that interest has been transmitted in accordance with Rule 12 hereof or that no representative in respect of that interest has attended the meeting.

14. If any claimant or, if there is any excluded interest, the purchasing authority is aggrieved by an assessment made by the valuation officer, the claimant or the authority may by giving notice of appeal to the Reference Committee within 28 days after receipt of the assessment require the value of the interest dealt with by the assessment to be determined by an arbitrator.

15.—(1) Where an independent person has been appointed in respect of an interest under paragraph (e) of sub-Rule (1) of Rule 22 hereof and the value of the interest has been agreed or assessed under sub-paragraph (3) or (4) of paragraph 2 of the Eighth Schedule any person who would have been entitled but for the said paragraph 2 to have any question of disputed compensation in relation to that interest referred to arbitration in accordance with the Act of 1919 and who, by means of a statutory declaration made and transmitted to the Reference Committee within six months after the agreement or assessment of the value of the interest and after furnishing such further information as the Committee may require, satisfies the Committee that the fact that no claim was duly made within the time prescribed by the said paragraph (e) was not attributable to any default on his part may, by giving notice of appeal to the Committee within 28 days after receipt of notice of the Committee's decision, require the value of the interest to be determined by an arbitrator.

(2) The Reference Committee shall have power from time to time to extend the said period of six months and an extension may be granted although the application is not made until after the said period, or any extension thereof, has expired.

16. The procedure for obtaining such determination as is referred to in Rules 7, 14 and 15 hereof shall be in accordance with the provisions set out in the First and Second Schedules to these Rules.

Dated the 28th day of September, 1945.

Jowitt, C.

FIRST SCHEDULE.

1. In this Schedule, "interested person" means

- (i) in relation to a reference under Rule 7, the purchasing authority and every claimant;
- (ii) in relation to an appeal under Rule 14, the applicant and any other claimant and, where there is an excluded interest, the purchasing authority, and
- (iii) in relation to an appeal under Rule 15, the applicant and the purchasing authority.

2.—(1) Notice of reference or appeal shall be given in writing and substantially in the Form A set out in the Second Schedule to these Rules and shall be sent to the Reference Committee in duplicate.

(2) The applicant shall when sending any such notice to the Reference Committee at the same time send a copy thereof to every other person known or believed by him to be an interested person.

3.—(1) The Reference Committee may, on the application of any interested person made before the expiration of the further period prescribed by Sub-rule (2) of Rule 7 or the time prescribed by Rules 14 or 15, as the case may be, extend the time within which a notice of reference or appeal should be given to the Reference Committee as they, in their absolute discretion, think fit.

(2) Any application for an extension of time shall be made in writing to the Reference Committee and shall state the grounds on which it is made, and a copy thereof shall be sent at the same time by the applicant to every other person known or believed by him to be an interested person.

(3) The Reference Committee shall give to any interested person to whom a copy of the application has been sent pursuant to sub-paragraph (2) of this paragraph reasonable opportunity for laying before them in writing any objection which he may have to any application for an extension of time and the Reference Committee shall consider any such objections before dealing with the application.

4.—(1) The Reference Committee on receiving a valid notice of reference or appeal shall proceed to select from the panel an arbitrator to determine the reference or appeal:

Provided that, where a valid notice of reference is duly given to the Reference Committee under Rule 7 for the determination of the question how the certified after-damage value of land in a hereditament ought to be adjusted in accordance with the provisions of sub-paragraph (3) of paragraph 1 of the Eighth Schedule and an appeal involving the after-damage value of that land has been made in accordance with the provisions of the War Damage Act, 1943, or any amendment or re-enactment thereof the Reference Committee shall, unless in their opinion it is impracticable to do so, select the same person or tribunal to determine the reference as was selected to determine the appeal, whether or not that person or tribunal is an arbitrator.

Where under the foregoing proviso the Reference Committee select a person or tribunal who is not an arbitrator to determine a reference, the person or tribunal so selected shall for the purposes of the following provisions of this Schedule be deemed to be an arbitrator and those provisions shall be construed accordingly.

(2) Where more than one valid notice of reference or appeal is duly given to the Reference Committee in relation to the same hereditament or where application for the selection of an arbitrator has been made both under the Acquisition of Land (Assessment of Compensation) Rules, 1919, and under these Rules to determine any question in relation to the same hereditament the Reference Committee shall, unless in their opinion it is impracticable to do so, select the same person or tribunal to act as arbitrator in respect of those references or appeals.

(3) The Reference Committee shall, as soon as they have selected the arbitrator, send him a copy of the notice of reference or appeal and shall inform the applicant and every person named in the notice as another interested person of the name and address of the arbitrator so selected.

5.—(1) Where the same person has been selected to act as arbitrator in respect of two or more references or appeals, the applicant in any of those references or

appeals and any other person who is an interested person for the purposes of any of those references or appeals, may at any time after the arbitrator has been so selected apply to him for an order that all the references or appeals shall be heard together or that any one of the references or appeals may be heard in priority to the others and the others postponed.

(2) Any person who intends to apply to the arbitrator for such an order as aforesaid shall send written notice of his intention to each other person who under sub-paragraph (1) hereof is entitled to make the application.

(3) If any person to whom a notice is required to be given under sub-paragraph (2) hereof objects to the proposed application he shall within seven days after receipt of the notice send written notice of his objection to the arbitrator.

(4) The arbitrator shall consider any objections made to the application and may at his discretion either dispose of them without a hearing or fix a time and place for the hearing of the objections, in which case he shall give notice thereof to the person applying for the order and to every other person to whom a notice is required to be given under sub-paragraph (2) of this paragraph hereof.

(5) The arbitrator, after taking into consideration any such objections, shall make such order in the matter as he thinks proper having regard to all the circumstances of the case and, if he thinks fit, may make an order for consolidation with respect to some only of the references or appeals and the order may in any case be made subject to such special directions as to costs, witnesses, method of procedure and otherwise as the arbitrator thinks proper.

6.—(1) Any applicant may apply to the arbitrator, or if no arbitrator has been appointed, to the Reference Committee for leave to withdraw his reference or appeal and the arbitrator, or the Reference Committee, as the case may be, may refuse or grant the application unconditionally or subject to such conditions (including payment of costs) as he, or they, may think fit.

(2) An application for leave to withdraw a reference or appeal shall be in writing and substantially in the form B set out in the Second Schedule to these Rules and the applicant shall send a copy thereof to every other interested person.

7. The Reference Committee may, in the case of the death or the incapacity of the arbitrator originally selected, or if it is shown to the Committee that it is expedient so to do in any other case, at any time before the arbitrator has made his decision revoke his appointment and select another arbitrator for the purpose of determining the reference or appeal.

8. If it appears to the arbitrator that any applicant has failed to send a copy of a notice of reference or appeal to any person who appears to the arbitrator to be an interested person, the arbitrator may direct that a copy of the notice shall be sent to that person.

9. The arbitrator shall, as soon as practicable after his selection, fix a time and place for the hearing of the reference or appeal and shall give notice thereof to the applicant, to every person named in the notice of reference or appeal as another interested person, to every person to whom the arbitrator has under paragraph 8 of this Schedule directed that a copy of a notice of reference or appeal shall be sent and to every other person who has satisfied the arbitrator that he is an interested person and has notified the arbitrator of his desire to appear at the hearing.

10.—(1) On the hearing of a reference or appeal the applicant and every other person who is entitled to a notice of the hearing under paragraph 9 of this Schedule shall be entitled to appear and be heard and, subject to the provisions of these Rules, the proceedings on the hearing shall be such as the arbitrator may in his discretion direct.

(2) On the hearing of any reference or appeal before an arbitrator not more than one expert witness may be heard at the instance of the applicant and each other interested person unless the arbitrator otherwise directs.

(3) On the hearing of an appeal before an arbitrator the valuation officer who made the assessment from which the appeal is made shall attend, if the arbitrator so requires, to answer such questions as the arbitrator may think fit to put to him thereon.

11.—(1) The decision of the arbitrator on a reference or appeal shall be substantially in the Form C set out in the Second Schedule to these Rules and shall be sent to the Reference Committee and the arbitrator shall cause copies thereof to be furnished to the applicant and to every other interested person who appeared on the hearing.

(2) If as the result of a case being stated by the arbitrator for the opinion of the High Court or of the County Court directions are given by the Court for any amendment of his decision, such amendment shall be substantially in the Form D set out in the Second Schedule to these Rules and shall be sent to the Reference

Committee and the arbitrator shall cause copies thereof to be furnished to the applicant and to every other interested person who appeared on the hearing.

12. For the purposes of an application for an extension of time under paragraph 3 of this Schedule or for leave to withdraw a notice of reference or appeal under paragraph 6 of this Schedule the Reference Committee may act by such one or more of their members or officers as the Committee may appoint for the purpose.

13.—(1) The costs of any arbitration or reference under these Rules shall be in the discretion of the arbitrator who may direct to and by whom and in what manner those costs or any part thereof shall be paid and the arbitrator may in any case disallow the costs of Counsel.

(2) The amount of any costs of any arbitration or reference under these Rules shall be determined by reference to scales to be prescribed by the Treasury and in case of difference as to the amount of any such costs they shall be taxed by the arbitrator or in such manner as he may direct.

(3) For the purposes of this paragraph "costs" includes any fees charges and expenses of the arbitration or reference or award.

14. Any notice or other document required or authorised to be sent to any person for the purpose of this Schedule shall be deemed to have been duly sent if sent by post addressed to that person at his ordinary address and the address of the Reference Committee for this purpose shall be

The Secretary to the Reference Committee,
121, Royal Courts of Justice,
London, W.C.2.

15. Any failure on the part of any person to comply with the provisions of this Schedule shall not render the proceedings or anything done in pursuance thereof invalid unless the arbitrator so directs.

SECOND SCHEDULE

A.

FORM OF NOTICE OF REFERENCE OR APPEAL.

TOWN AND COUNTRY PLANNING ACT, 1944.

Acquisition of Land (Compensation for War Damaged Land) Rules, 1945.

Notice of Reference under Rule 7 (2) of the Rules.

OR

Notice of Appeal under Rule 14 of the Rules

OR

Notice of Appeal under Rule 15 of the Rules.

The Secretary of the Reference Committee,
121, Royal Courts of Justice,
London, W.C.2.

I/WE HEREBY GIVE NOTICE of my/our intention to refer/appeal under sub-rule (2) of Rule 7/Rule 14/Rule 15 of the above mentioned Rules and apply for the selection of an arbitrator to hear and decide the matter of which particulars are subjoined.

The persons whose names and addresses appear in the subjoined particulars and to whom a copy of this Notice is being sent include all the persons whom I/we know or believe to be interested persons in relation to this reference/appeal.

Signed.....

Dated.....

PARTICULARS.

Name and address of Applicant(s)

Name and address of Applicant(s) Solicitor or Agent (if any)

If a Reference.

Matter referred for decision

Whether an appeal involving after damage value of land in the hereditament has been made in accordance with the provisions of the War Damage Act, 1943, or any amendment or re-enactment thereof.

If an appeal

The nature and amount of the value(s) which is/are disputed.....

Grounds of appeal

In either case

Situation and description of the hereditament affected.....

Nature of interest of Applicant

Other interested persons stating :—

Names and Addresses	Names and Addresses of Solicitors or Agents (if any)	Nature of Interest

Strike out paragraphs or words which are inapplicable.

B.

APPLICATION FOR LEAVE TO WITHDRAW REFERENCE/APPEAL.

TOWN AND COUNTRY PLANNING ACT, 1944.

*Acquisition of Land (Compensation for War Damaged Land) Rules, 1945.**Application for leave to withdraw Reference/Appeal.*

To the Arbitrator,

Or to The Secretary to the Reference Committee,
121, Royal Courts of Justice,
London, W.C.2.

I/We hereby apply for leave to withdraw my/our Reference/Appeal in respect
of which notice was given on the day of 19 , on the following
grounds :—

Signed

Dated

C.

FORM OF DECISION OF ARBITRATOR.

TOWN AND COUNTRY PLANNING ACT, 1944.

*Acquisition of Land (Compensation for War Damaged Land) Rules, 1945.**Decision of Arbitrator on Reference/Appeal.**Reference No.*

* In the matter of a Reference/Appeal under sub-rule (2) of Rule 7/Rule 14/Rule
15 of the above Rules by Notice dated the day of , 19 , given at
the instance of the of of
certain war damaged hereditaments being the subject of a compulsory purchase
and being situate at in the County of .

Now I, A.B., the Arbitrator selected by the Reference Committee for England
and Wales to determine the said Reference/Appeal, having heard the same decide
as follows :—

Signed

Arbitrator.

Dated

D.

FORM OF AMENDMENT OF DECISION OF ARBITRATOR.

TOWN AND COUNTRY PLANNING ACT, 1944.

*Acquisition of Land (Compensation for War Damaged Land) Rules, 1945.**Amended Decision of Arbitrator.*

Whereas on the day of 19 , I made my decision on the Reference/Appeal of by Notice dated the day of 19 , and Numbered in respect of certain war damaged hereditaments being the subject of a compulsory purchase and being situate at in the County of . And whereas on the day of 19 , a case was stated and signed by me for the opinion of the High Court/County Court who on the day of 19 , gave directions as to the amendment of my said decision.

Now in pursuance of the said directions I hereby amend my said Decision and decide as follows :—

Signed
Arbitrator.

Dated

The Acquisition of Land (Increase of Supplement) Order, 1946

Dated July 22nd, 1946, made by the Treasury under sub-section (3) of section 60 of the Town and Country Planning Act, 1944 (7 & 8 Geo. 6, c. 47).

S. R. & O., 1946, No. 1163.

The Treasury in exercise of the power conferred upon them by sub-section (3) of section 60 of the Town and Country Planning Act, 1944 (hereinafter referred to as "the Act") hereby make the following Order :—

1. As respects the period beginning on the 22nd day of July, 1946, and ending on the expiration of five years from the commencement of the Act for any reference in Section 58 of the Act to thirty per cent. there shall be substituted a reference to sixty per cent.

2.—(1) This Order may be cited as the Acquisition of Land (Increase of Supplement) Order, 1946.

(2) The Interpretation Act, 1889, applies to the interpretation of this Act as it applies to the interpretation of an Act of Parliament.

Dated this 22nd day of July, 1946.

*C. James Simmons,
 R. J. Taylor,
 Two of the Lords Commissioners
 of His Majesty's Treasury.*

EXPLANATORY NOTE.

(This Note is not part of the above Order, but is intended to indicate its general purport.)

Section 57 of the Town and Country Planning Act, 1944, provides for compensation on the compulsory acquisition of land by a Government Department or Local or Public Authority to be calculated by reference to prices current at the 31st March, 1939, in cases where the notice is treated as served at any time within the period of five years from the commencement of the Act (17th November, 1944). And Section 58 provides for a supplement to be paid to an owner-occupier where the compensation is by virtue of Section 57 to be calculated by reference to 1939 prices. The maximum supplement is fixed by the Act at 30 per cent. of the value of the building or interest. This Order increases the maximum rate of supplement to 60 per cent. in cases where the notice to treat is served on or after the 22nd July, 1946.

The Acquisition of Land (Compensation for War Damaged Land) (Costs) Rules, 1946

Dated August 22nd, 1946, made by the Treasury under the Eighth Schedule to the Town and Country Planning Act, 1944 (7 & 8 Geo. 6, c. 47), and the First Schedule to the Acquisition of Land (Compensation for War Damaged Land) Rules, 1945 (S. R. & O., 1945, No. 1216/L19).

S. R. & O., 1946, No. 1450.

Whereas it is provided by sub-paragraph (5) of paragraph 2 of the Eighth Schedule to the Town and Country Planning Act, 1944 (which Schedule makes provision for the ascertainment of the compensation for the compulsory purchase of land valued under the War Damage Act, 1943) that the cost of the employment by a claimant of a person skilled in valuation to advise or act for him on the agreement or assessment of the value of his interest shall be paid by the Authority :

And whereas it is provided by sub-paragraphs (6) and (8) of the said paragraph 2 and by Rules 7, 14 and 15 of the Acquisition of Land (Compensation for War Damaged Land) Rules, 1945 (hereinafter referred to as "the Principal Rules") that certain matters may be determined by arbitration or reference :

And whereas it is provided by sub-paragraph (10) of the said paragraph 2 and by paragraph 13 of the First Schedule to the Principal Rules that the amount of any costs that a purchasing Authority are liable to pay by virtue of the said sub-paragraph (5), or of any arbitration or reference under the said sub-paragraphs (6) or (8) or under the Principal Rules, shall be determined by reference to scales to be prescribed by the Treasury :

Now, therefore, the Treasury in exercise of the powers in that behalf contained in sub-paragraph (10) of paragraph 2 of the Eighth Schedule to the Town and Country Planning Act, 1944, and paragraph 13 of the First Schedule to the Principal Rules and of every other power enabling them in that behalf hereby prescribe as follows :—

1. The costs that a purchasing Authority are liable to pay by virtue of the said sub-paragraph (5) in respect of the employment by a claimant of a person skilled in valuation shall be the aggregate of

- (a) four-thirds of the fee calculated in accordance with the scale set out in the Schedule hereto by reference to the appropriate amount, that is to say, that proportion of the certified after-damage value of the land (or that value as adjusted) which is apportioned to the claimant's interest and
- (b) one-fifth of the fee calculated in accordance with the scale set out in the Schedule hereto by reference to the appropriate amount, that is to say, that proportion of the certified after-damage value of the land (or that value as adjusted) which is apportioned to all the other interests (not represented by the same person) including excluded interests :

Provided that the fee payable under this sub-paragraph (b) shall not exceed one-half of the fee payable under sub-paragraph (a), and

- (c) the actual out-of-pocket expenses properly and reasonably incurred by that person in respect of travelling.

2. The costs of an arbitration or reference under sub-paragraphs (6) or (8) of the said paragraph 2 or under Rules 7, 14 or 15 of the Principal Rules shall be determined as follows :—

- (1) as regards the costs of a person skilled in valuation

- (a) in the case of an arbitration under sub-paragraph (6) and Rule 14, an attendance fee of ten guineas for each day on which that person's attendance to give evidence before the arbitrator is required, but no qualifying fee shall be payable,

- (b) in the case of an arbitration under sub-paragraph (8) and Rule 15, the aggregate of a fee calculated as in sub-paragraph (a) and a fee calculated in accordance with the scale set out in the Schedule hereto by reference to the amount of the compensation on the basis of the value of the interest as determined by the arbitrator,
 - (c) in the case of a reference under Rule 7, an attendance fee of ten guineas for each day on which that person's attendance to give evidence before the arbitrator is required and (but only in a case where notice to treat has been served in respect of not more than one interest in the land and the claimant in respect of that interest is entitled to the whole of the certified after-damage value (or that value as adjusted)) a qualifying fee being four-thirds of the fee calculated in accordance with the scale set out in the Schedule hereto by reference to the appropriate amount, that is to say, the difference between the certified after-damage value and the after-damage value as adjusted by the arbitrator so, however, that where such difference is ascertained by adding for some elements and subtracting for others the appropriate amount shall be the aggregate amounts so added and subtracted.
 - (d) in addition to the sums payable under sub-paragraphs (a), (b) or (c), the actual out-of-pocket expenses properly and reasonably incurred by that person in respect of travelling ;
- (2) as regards legal costs, charges and expenses, without prejudice to the power of the arbitrator to assess the whole or any part of the costs or to order payment of costs as between solicitor and client or as between party and party, by reference to the provisions of Order LXV and Appendix N of the Rules of the Supreme Court, or, if the arbitrator so directs, to the scales of costs in Appendix B to the County Court Rules 1936 ;
 - (3) as regards fees, the same fees shall be payable on the notice of reference or appeal given under the Principal Rules and on the decision of the arbitrator as are prescribed by the Treasury under Section 3 (6) of the Acquisition of Land (Assessment of Compensation) Act, 1919, on an application for the selection of an arbitrator and an award made by an official arbitrator respectively save that, in calculating the fee payable on the decision of the arbitrator, for references to the amount awarded to the claimant, there shall be substituted
 - (a) in the case of an arbitration under sub-paragraph (6) and Rule 14, references to the value of the interest as determined by the arbitrator,
 - (b) in the case of an arbitration under sub-paragraph (8) and Rule 15, references to the amount of the compensation on the basis of the value of the interest as determined by the arbitrator, and
 - (c) in the case of a reference under Rule 7, references to the appropriate amount, that is to say, the difference between the certified after-damage value and the after-damage value as adjusted by the arbitrator so, however, that where such difference is ascertained by adding for some elements and subtracting from others the appropriate amount shall be the aggregate of the amounts so added and subtracted

and the Acquisition of Land (Assessment of Compensation) Fees Rules, 1931, and any rules amending or replacing them shall apply accordingly.

3. The sums prescribed by Rule 1 hereof and by Rule 2 hereof as regards the costs of a person skilled in valuation shall not be payable in respect of more than one such person for any one interest.

4. In these Rules the expression "arbitrator" includes, in relation to a reference under Rule 7 of the Principal Rules, any person or tribunal

selected in accordance with the First Schedule to those Rules to determine the reference.

5.—(1) These Rules may be cited as the Acquisition of Land (Compensation for War Damaged Land) (Costs) Rules, 1946.

(2) The Interpretation Act, 1889, applies to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

Dated the twenty-second day of August, 1946.

R. J. Taylor,
Frank Collindridge,
Two of the Lords Commissioners
of His Majesty's Treasury.

SCHEDULE.

SCALE OF FEES FOR PERSONS SKILLED IN VALUATION.

Amount	Gns.	Amount	Gns.	Amount	Gns.	Amount	Gns.
<i>£</i> No Amount ...	Nil	<i>£</i> 1,800	22	<i>£</i> 5,200	39	<i>£</i> 8,600	56
Up to <i>£</i> 50 ...	3	2,000	23	5,400	40	8,800	57
<i>£</i> 50 and below <i>£</i> 100	4	2,200	24	5,600	41	9,000	58
100	5	2,400	25	5,800	42	9,200	59
200	7	2,600	26	6,000	43	9,400	60
300	9	2,800	27	6,200	44	9,600	61
400	11	3,000	28	6,400	45	9,800	62
500	13	3,200	29	6,600	46	10,000	63
600	14	3,400	30	6,800	47	11,000	68
700	15	3,600	31	7,000	48	12,000	73
800	16	3,800	32	7,200	49	14,000	83
900	17	4,000	33	7,400	50	16,000	93
1,000	18	4,200	34	7,600	51	18,000	103
1,200	19	4,400	35	7,800	52	20,000	113
1,400	20	4,500	36	8,000	53	Half a Guinea per cent. on the remainder	
1,600	21	4,800	37	8,200	54		
		5,000	38	8,400	55		

As respects an amount between the steps in the Scale, if the amount is less than *£*1,000 the fee shall be calculated by reference to the next step above the actual amount; and if the amount is above *£*1,000 the fee shall be calculated by reference to the step next below the actual amount.

CIRCULAR 91.

To all Local Authorities

MINISTRY OF HEALTH,
WHITEHALL, LONDON, S.W. 1.
7th May, 1946.

SIR,

Town and Country Planning Act 1944—Part II

Compensation in connection with acquisition of land for Public Purposes

I am directed by the Minister of Health to state that it is understood that local authorities would welcome guidance on the provisions of Part II of the Town and Country Planning Act, 1944, and also on the provisions of the Eighth Schedule to that Act. The following notes are intended to assist local authorities in their consideration of matters arising under those provisions.

General

1. Part II of the Town and Country Planning Act 1944 adds to the Statutory Compensation Code relating to the compulsory purchase of land for public purposes and in general provides that

(a) compensation shall be assessed by reference to prices current at 31 March 1939 (Section 57);

(b) a supplement to compensation under Section 57 may in certain circumstances be payable (i) to an "owner-occupier" of a building or of an agricultural property (Section 58) or (ii) in respect of "improvements" effected since 31 March 1939 (Section 59);

(c) the certified after-damage value shall be the value for the purpose of compulsory purchase in the case of war damaged properties (Section 61 and the Eighth Schedule);

(d) the rate of interest payable where entry is made on land before the payment of compensation shall be 4 per cent. or such other rate as may be prescribed by the Treasury (Section 62).

It should be noted that Part II is not limited to purchases under Part I but applies to all compulsory purchases by a government department or a local authority or public authority. There is, however, a special code contained in the 4th Schedule to the Act as to the assessment of compensation for the acquisition under Part I of land held for the purpose of the carrying on of a statutory undertaking.

The operation of Sections 57-61 of Part II is limited to the 5 years ending 17 November 1949.

Notes on Sections and Schedules

2. Section 57 (1) of the 1944 Act provides that where a Notice to Treat is served at any time within a period of five years from the commencement of the Act, i.e., 17 November 1944, the value of the interest in the land being purchased by a local authority and compensation for damage by severance to other land held therewith or otherwise injuriously affected shall be ascertained by reference to prices current at 31 March 1939. This basis will not, however, apply to compensation for disturbance (see Paragraph 5) or to compensation assessed on the basis of the cost of equivalent reinstatement under Rule (5) Section 2 of the Acquisition of Land (Assessment of Compensation) Act 1919.

3. Section 57 (1) further provides that it shall be assumed that the land being purchased (or injuriously affected) had been on 31 March 1939 in the same state as regards physical condition as it was at the date of the notice to treat and that the claimant's interest in the land had subsisted at 31 March 1939 as it was in fact subsisting at the date of the Notice to Treat.

4. Section 57 (2) and the Seventh Schedule contain special provisions in regard to tenancies, land capable of being re-developed in combination with other land, dwelling houses to which the Rent and Mortgage Interest (Restrictions) Acts 1920 to 1925 apply and to agricultural holdings.

5. Section 57 (3) provides that compensation for disturbance shall not be assessed at any greater amount than if Section 57 (1) had not been enacted.

6. Section 58 provides that where the land being purchased comprises a building or agricultural property, an "owner-occupier" (see paragraph 8) shall in addition to compensation under Section 57 (1) be entitled to the payment of supplemental compensation not exceeding 30 per cent. of the 1939 value of the building (but not the land on which it stands) or, if agricultural property, not exceeding a specified maximum. The maximum amounts of such supplements and the methods of ascertainment are laid down in sub-sections (2), (3) and (4).

An owner-occupier is not automatically entitled to supplemental compensation and the amount is limited to such sum (within the maximum) as may be reasonable in all the circumstances of his occupation. This section

should be read in conjunction with the Acquisition of Land (Valuation for Supplemental Compensation) Regulations 1945 (S.R. & O. 1945 No. 370).

7. Section 58 (4) provides that in fixing the maximum supplement, it shall be assumed that the building or agricultural property had been at 31 March 1939 in the same state as regards physical condition as it was at the date of the Notice to Treat. The exception to this rule is that where the land has sustained war damage which has not been made good, and where, apart from the compulsory purchase, the war damage payment under the War Damage Act 1943 would be a payment of cost of works, it shall be assumed that the building or property had been at 31 March 1939, in the state in which it was immediately before the occurrence of war damage. The effect is that in such cases the supplemental compensation to "owner occupiers" will be based on the value of the building as undamaged and not in its damaged state.

8. Section 58 (5) and (6) and the Lord Chancellor's Regulations (S.R. & O. 1945 No. 759/L.12) lay down certain conditions which must be satisfied before a claimant can qualify as an owner-occupier. It will be necessary for the purchasing authority to decide on the merits of the case whether a claimant is entitled, as owner-occupier, to receive supplemental compensation under Section 58. It will be observed that the specimen claim form attached to the Appendix provides for certain particulars to be furnished by the claimant in respect of his claim. Where the District Valuer is acting on behalf of the Local Authority, it will be necessary for the Authority to notify him whether the claimant may be deemed to be an owner-occupier within the meaning of Section 58 and, if so, the effective date (see Rule 5 (3) of S.R. & O. 1945 No. 370) if subsequent to the date of the Notice to treat. This latter point is of importance, having regard to the limitations imposed by these sub-sections. Any dispute as to whether the claimant is an owner-occupier may be settled by the County Court (Section 60 (1) (a)).

9. Section 59 makes provision for the payment of a supplement to compensation under Section 57 (1) in cases where, since 31 March, 1939, land has been improved by the erection of buildings, or improvements to buildings or to agricultural land have been made. The payment is limited to such sum as may be reasonable in all the circumstances and inter alia an appropriate deduction may fall to be made from such supplemental compensation in respect of any improvements the cost of which has been borne out of public monies.

10. Section 60 (1) prescribes the method of dealing with disputed claims for supplemental compensation under Sections 58 and 59.

11. Section 60 (3) enables the Treasury, with the approval of Parliament, to vary the maximum rate of 30 per cent. prescribed for supplemental compensation to owner-occupiers under Section 58.

12. Section 60 (4) provides that where a claimant entitled to supplemental compensation as an owner-occupier under Section 58 would also be entitled to supplemental compensation for improvements under Section 59, he will only receive as a supplement to compensation arrived at under Section 57, a sum which represents the greater of the two amounts payable under Section 58 or 59 respectively.

13. Section 60 (5) provides that where a claimant is entitled to receive payment of interest on the compensation for the compulsory purchase of his land, he will also receive interest on the amount of any supplemental compensation under Section 58 or 59 to which he may be entitled.

14. Section 61 and the 8th Schedule provide that where the subject of a compulsory purchase is the whole of a war damaged hereditament within the meaning of the War Damage Act, 1943, and the War Damage Commission is required by that Act to ascertain its value by reference to its state after war damage and to an assumed sale thereof, the value of the land for the purpose of ascertaining the compensation for compulsory purchase shall

be the after damage value as certified by the Commission, unless between the occurrence of the war damage and the time when the notice to treat is served, the land in the hereditament has been brought into such a state as to make it capable of being as beneficially used as before the occurrence of the war damage. The 8th Schedule further provides that the after damage value may be adjusted if, between the date of the war damage and the date of the notice to treat, there is any material difference in the state of the land or in the incumbrances required by the War Damage Act to be taken into account in ascertaining the value.

15. It is important to note that the War Damage Act (Section 14) provides that the compulsory purchase of a war damaged property converts a cost of works payment into a value payment in respect of any damage not made good at the date of the notice to treat or of any action by virtue of which acquisition becomes obligatory or of any agreement to purchase with powers of compulsory purchase.

16. It will be necessary for Authorities proposing to purchase property compulsorily to ascertain whether the property has sustained war damage and the kind of payment which would normally be determined by the War Damage Commission under the War Damage Act. Unless the authority is already in possession of this information, enquiry should be made of the Regional Office of the War Damage Commission as to the war damage position at the early stage of the proposals for acquisition.

17. On the confirmation of a compulsory purchase order or other authorisation having the effect of a compulsory purchase order, the local authority should ascertain from the War Damage Commission whether there has been any change in the war damage position of the war damaged property. Where the war damage has been wholly made good, the 8th Schedule of the Act will not apply and the compensation for compulsory purchase should be assessed under the general provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919, as applied by the Town and Country Planning Act. Where the damage has not been wholly made good, the question arises of the application of the provisions of the 8th Schedule and the Acquisition of Land (Compensation for War Damaged Land) Rules, 1945, dated 28th September, 1945, made by the Lord Chancellor under the 8th Schedule—S.R. & O. 1945 No. 1216/L.19.

18. The procedure of basing the compensation for compulsory purchase in cases falling within the 8th Schedule on the certified after damage value will render unnecessary separate negotiations as to the purchase price unless negotiations on the adjustment of this value to take account of any material difference in the state of the land or in incumbrances are found to be necessary. It will be necessary to notify claimants of the procedure under the 8th Schedule and the Rules. Notices to Treat in respect of properties which have sustained war damage which has not been wholly made good should be accompanied by an explanatory leaflet as set out in the Appendix to this circular and the specimen form of claim annexed to the leaflet.

19. The Rules provide that

(i) any question whether between the occurrence of the war damage and the date of service of the notice to treat (a) the land has been brought into such a state as to make it capable of being as beneficially used as it was before the occurrence of the war damage, or (b) if the land has not been brought into such a state as mentioned in (a), there is any material difference in the state or in the incumbrances required by the War Damage Act to be taken into account in ascertaining its value shall be determined by the War Damage Commission :

(ii) if any claimant desires any such question to be determined, he should within 29 days after the date of the service of the notice to treat notify the purchasing authority :

(iii) on receipt of such notification the purchasing authority shall serve a copy of the notification on the Commission :

(iv) similarly, if the purchasing authority wishes to raise any such question, it should notify the Commission within 28 days after the date of the service of the first notice to treat :

(v) the Commission may extend the period of 28 days, even though the application is not made until after this period or any extension thereof has expired.

20. On receipt of a claim made in response to the notice to treat, the purchasing authority should send a copy to the appropriate Regional Office of the War Damage Commission with a request that a certificate of after damage value may be furnished or that the question may be determined, as the case may be. The copy of the claim or a notification to the Commission of any question which the authority wishes to raise should be accompanied by :

(i) particulars of the interests which are being acquired :

(ii) the names and addresses of the owners of such interests, and

(iii) the date of the service of the notice to treat in respect of each interest.

21. If no question is raised within the period of 28 days, or any extension thereof granted by the Commission, or if any question has been raised and the determination of the Commission has been issued, the purchasing authority or any claimant may apply to the Commission for a certificate of after damage value.

22. On receipt of a certificate of after damage value from the Commission, the purchasing authority is required to serve a copy on every owner whose interest is being acquired. The amount certified will become the purchase price of the land, unless any question has been raised under paragraph 19 (i). If any such question has been raised, the Commission will, when it has made its determination, issue to the purchasing authority a certificate of its determination. The authority is required to serve forthwith a copy of the certificate on every person whose interest is being acquired.

23. Where the purchasing authority and all the claimants have agreed, or the Commission has made a determination that there is a material difference in state or incumbrances and agreement has not been reached at the end of 30 days thereafter as to the amount of the adjustment in the certified after damage value required to take account of such difference, the purchasing authority, or any claimant, may within a further period of 30 days apply to the Reference Committee constituted under the Acquisition of Land (Assessment of Compensation) Act, 1919, for the question to be referred to an official arbitrator, or if any appeal is being dealt with at the same time under the War Damage Act, 1943, involving the after damage value to the tribunal appointed to deal with such an appeal. The Rules governing any such references are set out in the 1st Schedule to the Acquisition of Land (Compensation for War Damaged Land) Rules, 1945.

24. Section 18 and the 6th Schedule of the Town and Country Planning Act, 1944, provide that where the Minister confirming a compulsory purchase order certifies that it is requisite that the purchasing authority should have power to enter on and secure the vesting of the land in the authority before the expiration of the time that would be needed for the service of notices to treat, he may direct that the order should be one " providing for expedited completion ". In such cases a notice to treat will not be served and the notice required to be served under paragraph 3 (3) of the 6th Schedule should be accompanied by the document referred to in paragraph 18 of this circular letter. Thereafter the procedure for dealing with any questions which may be raised should be on the lines indicated above.

25. The Rules (Part III) further provide for the apportionment of the after damage value, or that value as adjusted, between the owners of the several interests in the land which is being acquired. Where there are several interests, the purchasing authority should, when serving on the owners of such interests a copy of the certificate of after damage value as indicated in

paragraph 22 of this circular at the same time notify the owners that the amount will be apportioned between the owners of the various interests in accordance with the procedure set out in Part III of the Acquisition of Land (Compensation for War Damaged Land) Rules, 1945, to which they should refer. If within sixty days after the date of the Commission's certificate no agreement has been reached as to the apportionment of the certified after damage value, the procedure indicated in Rule 12 of the Rules is applicable. The Valuation Officer, to whom the estimates of the value of the various interests should be transmitted under Rule 12, should be addressed care of the District Valuer, Inland Revenue, for the District in which the hereditament being acquired is situate. The Valuation Officer should be furnished with a copy of the certificate of the after damage value.

26. The procedure outlined in paragraphs 14-25 only applies where the land is the subject of a compulsory purchase. Where the land is being acquired by agreement without recourse to a Compulsory Purchase Order or other authorisation having the effect of a Compulsory Purchase Order, neither the provisions of the 8th Schedule of the Town and Country Planning Act, 1944, nor Section 14 of the War Damage Act, 1943, apply and the War Damage Commission's certificate of after damage value will not be applicable. In those cases where the war damage has not involved total loss and a cost of works payment would normally be payable, the right to receive such a payment would pass to the purchasing authority to whom it would then be open to apply to the Commission to convert the payment into a value payment under the provisions of section 13 of the War Damage Act. Where the property is a total loss under the War Damage Act the District Valuer will act, or will have acted, for the Commission and where he is also acting on behalf of the purchasing authority he will be aware of the estimate of the after damage value and his advice on the terms of purchase will take account of this information.

27. An additional copy of this Circular is forwarded for the use of the Chief Financial Officer.

I am, Sir,
Your obedient Servant,
H. H. GEORGE.

APPENDIX

Draft Notice to be sent out by Purchasing Authorities with Notice to Treat in respect of War Damaged Land or Notice of Declaration in cases of Deemed Notice to Treat.

1. In connection with the accompanying Notice to Treat your attention is called to the provisions of the Eighth Schedule to the Town and Country Planning Act, 1944, and the Acquisition of Land (Compensation for War Damaged Land) Rules, 1945 (S.R. & O. 1945 No. 1216/L.19).

2. Paragraph 1 of this Schedule provides in effect that, subject to certain adjustments mentioned below, where the land which is being compulsorily purchased comprises the whole of a war damaged hereditament or hereditaments, the value of the land comprised in such hereditament or hereditaments for the purposes of compensation for the compulsory purchase shall be taken to be the certified after-damage value, i.e. the amount certified by the War Damage Commission to be the value of such land in its state after war damage as ascertained under the War Damage Act, 1943, unless between the occurrence of the war damage and the time when the Notice to Treat is served or deemed to be served the land in the hereditament has been rendered capable of being as beneficially used as before the war damage.

3. If paragraph 1 of the Eighth Schedule does apply the certified after-damage value is nevertheless to be adjusted if there is any material difference either (a) between the state of the land after the war damage and its state at

the time when the notice to Treat is served or deemed to be served or (b) between the incumbrances, if any, to which the land was subject immediately after the occurrence of the war damage and the incumbrances, if any, to which it is subject at the time when the Notice to Treat is served or deemed to be served, being incumbrances of a kind required by the War Damage Act to be taken into account in ascertaining the value of the hereditament (see War Damage Act, 1943, Second Schedule, paragraph 1).

4. It is understood that the premises to which the attached Notice to Treat relates have sustained war damage which has not yet been wholly made good and it would appear therefore that the provisions of the Eighth Schedule will apply in ascertaining the compensation in respect of the war damaged hereditaments, and unless you wish to raise any question as mentioned in paragraphs 2 and 3 the War Damage Commission will be asked to furnish a certificate of the after damage value. If you wish to raise any such question notice should be given to the purchasing authority within 28 days after the date of the service of the Notice to Treat.

5. By virtue of the Acquisition of Land (Compensation for War Damaged Land) Rules, 1945, any question as to whether the land is as capable of being as beneficially used as before the war damage (paragraph 2) or whether between the date of the war damage and the date of the service or deemed service of the Notice to Treat there is any material difference either in the state of the land or in the incumbrances as described in paragraph 3 falls to be determined by the War Damage Commission, failing agreement between the purchasing authority and the claimant. If there is any such material difference and agreement is not reached on the amount of the adjustment in the after damage value required to take account of such difference at the expiration of thirty days after the Commission's determination, the purchasing authority or any claimant may within a further period of thirty days apply to the Reference Committee constituted under the Acquisition of Land (Assessment of Compensation) Act, 1919, for the appointment of an arbitrator to determine the amount.

6. In order that any question as to the application of the Eighth Schedule may be quickly determined you are asked to fill up and return to the purchasing authority *within twenty-eight days from receipt of this Notice* the enclosed form. On receipt of the form and if agreement cannot be reached, the purchasing authority will inform the War Damage Commission of any question falling to be determined by the Commission.

7. Paragraph 2 of the Eighth Schedule and the above-mentioned Rules contain provisions for the apportionment of the certified after-damage value where Notices to Treat are served in respect of two or more interests in war damaged land within a period of sixty days. The date of service of the first Notice to Treat in the case of this land is the day of

FORM OF CLAIM REQUIRED UNDER NOTICE TO TREAT SERVED
DEEMED TO BE SERVED
ON ME ON
THE DAY OF BY (PURCHASING AUTHORITY)

(a) Name, residence, business or description of claimant.	(b) No. on plan referred to on accompanying Notice to Treat or Notice of Declaration	(c) Situation and description of the lands and hereditaments	(d) Particulars of the estate, whether free- hold or leasehold and if leasehold the unexpired term of the lease and the rent payable.	(e) Names of Occupiers, whether lessee or other tenants, the rent paid, the terms of years and the commencement of such terms.

Details of compensation claimed should be given below distinguishing (except in respect of Item 2) the amounts under separate heads and showing how the amount claimed under each head is calculated. Strike out whichever of the items marked * is inapplicable.

* 1. *Claim that the Eighth Schedule does not apply*

(i) I claim that the Eighth Schedule to the Town and Country Planning Act, 1944, does not apply to the land described in Statement A on the ground that

- (a) the land has never been the subject of a claim under the War Damage Act, 1943 ;
- (b) the land is capable of being as beneficially used as before the war damage.
- (ii) I claim for the value of my freehold/leasehold interest the sum of £.....

* 2. *Claim that the Eighth Schedule does apply and that no adjustment of the after damage value is required.*

I claim the amount of the after damage value as certified by the War Damage Commission and that no adjustment is required.

* 3. *Claim that the Eighth Schedule does apply but that an adjustment of the after damage value is required.*

I claim that an adjustment of plus/minus £..... in the after damage value as certified by the War Damage Commission should be made on the ground of a material difference in :—

- (a) the state of the land (particulars given in Statement B)
- (b) incumbrances (particulars given in Statement C).

* 4. *Claim for disturbance etc.*

I claim for disturbance and any other matter not directly based on the value of the land (apart from any claim under item 1, 2 or 3) the sum of £.....

* 5. *Claim for Supplemental Compensation as owner/occupier*

I claim to be entitled to supplemental compensation under Section 58 of the Town and Country Planning Act, 1944, as an owner-occupier/deemed owner-occupier. Amount claimed £..... (Particulars given in Statement D.)

* 6. *Claim for Supplemental Compensation in respect of improvements*

I claim to be entitled to supplemental compensation in respect of improvements under Section 59 of the Town and Country Planning Act, 1944, the sum of £..... (Particulars given in Statement E.)

STATEMENT A

Particulars of land to which the said Eighth Schedule is claimed not to apply.

STATEMENT B

Particulars of any material difference between the state of the land after the war damage and its state at the time of service of the Notice to Treat.

STATEMENT C

Particulars of any material difference in incumbrances after the war damage and at the time of service of the Notice to Treat.

STATEMENT D

Particulars of Claim for Supplemental Compensation Section 58.

STATEMENT E

Particulars of Claim for Supplemental Compensation under Section 59.

(1)	(2)	(3)	(4)	(5)
Date on which the building was erected or the improvements were carried out.	Full particulars of the building erected or the improvements carried out.	State cost of the Works (receipted accounts should be attached if available).	State whether any part of the cost was provided out of public monies.	State whether any part of the cost has been or will be recovered by means of increased returns or prices.

Signed
Date



APPENDIX

**THE LANDS CLAUSES
CONSOLIDATION ACT, 1845**



THE LANDS CLAUSES CONSOLIDATION ACT, 1845

[8 & 9 Vict. Ch. 18.]

An Act for consolidating in One Act certain Provisions usually inserted in Acts authorising the taking of Lands for undertakings of a public Nature.

[8th May, 1845.]

[*Preamble*]

[1.] Act to apply to all undertakings authorised by Acts hereafter to be passed.—This Act shall apply to every undertaking authorised by any Act which shall hereafter be passed, and which shall authorise the purchase or taking of lands for such undertaking, and this Act shall be incorporated with such Act; and all the clauses and provisions of this Act, save so far as they shall be expressly varied or excepted by any such Act, shall apply to the undertaking authorised thereby, so far as the same shall be applicable to such undertaking, and shall, as well as the clauses and provisions of every other Act which shall be incorporated with such Act, form part of such Act, and be construed together therewith as forming one Act.

Interpretation

And with respect to the construction of this Act and of Acts to be incorporated therewith, be it enacted as follows :

2. " Special Act : " " Prescribed : " " The works : " " Promoters of the undertaking ."—The expression " the special Act " used in this Act shall be construed to mean any Act which shall be hereafter passed which shall authorise the taking of lands for the undertaking to which the same relates, and with which this Act shall be so incorporated as aforesaid ; and the word " prescribed " used in this Act, in reference to any matter herein stated, shall be construed to refer to such matter as the same shall be prescribed, or provided for in the special Act, and the sentence in which such word shall occur shall be construed as if instead of the word " prescribed " the expression " prescribed for that purpose in the special Act " had been used ; and the expression " the works " or " the undertaking " shall mean the works or undertaking, of whatever nature, which shall by the special Act be authorised to be executed ; and the expression " the promoters of the undertaking " shall mean the parties, whether company, undertakers, commissioners, trustees, corporations, or private persons, by the special Act empowered to execute such works or undertaking.

3. Interpretations in this and the special Act.—The following words and expressions, both in this and the special Act, shall have the several

meanings hereby assigned to them, unless there be something either in the subject or context repugnant to such construction ; (that is to say),

NUMBER : Words importing the singular number only shall include the plural number, and words importing the plural number only shall include the singular number ;

GENDER : Words importing the masculine gender only shall include females ;

" LANDS : " The word " lands " shall extend to messuages, lands, tenements, and hereditaments of any tenure :

" LEASE : " The word " lease " shall include an agreement for a lease ;

" MONTH : " The word " month " shall mean calendar month :

" SUPERIOR COURTS : " The expression " superior courts " shall mean her Majesty's superior courts of record at Westminster or Dublin, as the case may require :

" OATH : " The word " oath " shall include affirmation in the case of Quakers, or other declaration lawfully substituted for an oath in the case of any other persons exempted by law from the necessity of taking an oath :

" COUNTY : " The word " county " shall include any riding or other like division of a county, and shall also include county of a city or county of a town :

" SHERIFF : " **" CLERK OF THE PEACE : "** The word " sheriff " shall include under sheriff, or other legally competent deputy ; and where any matter in relation to any lands is required to be done by any sheriff, or by any clerk of the peace, the expression " the sheriff, " or the expression " the clerk of the peace, " shall in such case be construed to mean the sheriff or the clerk of the peace of the county, city, borough, liberty, cinque port, or place where such lands shall be situate ; and if the lands in question, being the property of one and the same party, be situate not wholly in one county, city, borough, liberty, cinque port, or place, the same expression shall be construed to mean the sheriff or clerk of the peace of any county, city, borough, liberty, cinque port, or place where any part of such lands shall be situate :

" JUSTICES : " **" TWO JUSTICES : "** The word " justices " shall mean justices of the peace acting for the county, city, liberty, cinque port, or place where the matter requiring the cognizance of any such justice shall arise, and who shall not be interested in the matter ; and where such matter shall arise in respect of lands, being the property of one and the same party, situate not wholly in any one county, city, borough, liberty, cinque port, or place, the same shall mean a justice acting for the county, city, borough, liberty, cinque port, or place where any part of such lands shall be situate, and who shall not be interested in such matter : and where any matter shall be authorised or required to be done by two justices, the expression " two justices " shall be understood to mean two justices assembled and acting together.

" OWNER : " Where under the provisions of this or the special Act, or any Act incorporated therewith, any notice shall be required to be given to the owner of any lands, or where any Act shall be authorised or required to be done with the consent of any such owner, the word " owner " shall be understood to mean any person or corporation who, under the provisions of this or the special Act, would be enabled to sell and convey lands to the promoters of the undertaking :

" THE BANK : " The expression " the Bank " shall mean the Bank of England where the same shall relate to monies to be paid or deposited in respect of lands situate in England, and shall mean the Bank of Ireland where the same shall relate to monies to be paid or deposited in respect of lands situate in Ireland.

4. Short title of the Act.—In citing this Act in other Acts of Parliament and in legal instruments it shall be sufficient to use the expression "The Lands Clauses Consolidation Act, 1845."

5. Form in which portions of this Act may be incorporated with other Acts.—And whereas it may be convenient in some cases to incorporate with Acts of Parliament hereafter to be passed some portion only of the provisions of this Act: Be it therefore enacted, that for the purpose of making any such incorporation it shall be sufficient in any such Act to enact that the clauses of this Act with respect to the matter so proposed to be incorporated, (describing such matter as it is described in this Act in the words introductory to the enactment with respect to such matter,) shall be incorporated with such Act, and thereupon all the clauses and provisions of this Act with respect to the matter so incorporated shall, save so far as they shall be expressly varied or excepted by such Act, form part of such Act, and such Act shall be construed as if the substance of such clauses and provisions were set forth therein with reference to the matter to which such Act shall relate.

Purchase of lands by agreement

And with respect to the purchase of lands by agreement, be it enacted as follows :

6. Power to purchase lands by agreement.—Subject to the provisions of this and the special Act it shall be lawful for the promoters of the undertaking to agree with the owners of any lands by the special Act authorised to be taken, and which shall be required for the purposes of such Act, and with all parties having any estate or interest in such lands, or by this or the special Act enabled to sell and convey the same, for the absolute purchase, for a consideration in money, of any such lands, or such parts thereof as they shall think proper, and of all estates and interests in such lands of what kind soever.

7. Parties under disability enabled to sell and convey.—It shall be lawful for all parties, being seised, possessed of, or entitled to any such lands, or any estate or interest therein, to sell and convey or release the same to the promoters of the undertaking, and to enter into all necessary agreements for that purpose ; and particularly it shall be lawful for all or any of the following parties so seised, possessed, or entitled as aforesaid so to sell, convey, or release ; (that is to say,) all corporations, tenants in tail or for life, married women seised in their own right or entitled to dower, guardians, committees of lunatics and idiots, trustees or feoffees in trust for charitable or other purposes, executors and administrators, and all parties for the time being entitled to the receipt of the rents and profits of any such lands in possession or subject to any estate in dower, or to any lease for life, or for lives and years, or for years, or any less interest ; and the power so to sell and convey or release as aforesaid may lawfully be exercised by all such parties, other than married women entitled to dower, or lessees for life, or for lives and years, or for years, or for any less interest, not only on behalf of themselves and their respective heirs, executors, administrators, and successors, but also for and on behalf of every person entitled in reversion, remainder, or expectancy after them, or in defeasance of the estates of such parties, and as to such married women, whether they be of full age or not, as if they were sole and of full age, and as to such guardians, on behalf of their wards, and as to such committees, on behalf of the lunatics and idiots of whom they are the committees respectively, and that to the same extent as such wives, wards, lunatics and idiots respectively could have exercised the same power under the authority of this or the special Act if they had respectively been under no disability, and as to such trustees, executors, and administrators, on behalf of their cestui que trusts, whether infants, issue

unborn, lunatics, femmes covert, or other persons, and that to the same extent as such cestui que trusts respectively could have exercised the same powers under the authority of this and the special Act if they had respectively been under no disability.

8. Parties under disability to exercise other powers.—The power herein-after given to enfranchise copyhold lands, as well as every other power required to be exercised by the lord of any manor pursuant to the provisions of this or the special Act, or any Act incorporated therewith, and the power to release lands from any rent, charge, or incumbrance, and to agree for the apportionment of any such rent, charge, or incumbrance, shall extend to and may lawfully be exercised by every party herein-before enabled to sell and convey or release lands to the promoters of the undertaking.

9. Amount of compensation in case of parties under disability to be ascertained by valuation, and paid into the Bank.—The purchase money or compensation to be paid for any lands to be purchased or taken from any party under any disability or incapacity, and not having power to sell or convey such lands except under the provisions of this or the special Act, and the compensation to be paid for any permanent damage or injury to any such lands, shall not, except where the same shall have been determined by the verdict of a jury, or by arbitration, or by the valuation of a surveyor appointed by two justices under the provision herein-after contained, be less than shall be determined by the valuation of two able practical surveyors, one of whom shall be nominated by the promoters of the undertaking, and the other by the other party, and if such two surveyors cannot agree in the valuation, then by such third surveyor as any two justices shall, upon application of either party, after notice to the other party, for that purpose nominate; and each of such two surveyors, if they agree, or if not, then the surveyor nominated by the said justices, shall annex to the valuation a declaration in writing, subscribed by them or him, of the correctness thereof; and all such purchase money or compensation shall be deposited in the Bank for the benefit of the parties interested, in manner herein-after mentioned.

10. Where vendor absolutely entitled, lands may be sold on chief rents.—It shall be lawful for any person seised in fee of or entitled to dispose of absolutely for his own benefit any lands authorised to be purchased for the purposes of the special Act to sell and convey such lands or any part thereof unto the promoters of the undertaking in consideration of an annual rentcharge payable by the promoters of the undertaking [*but, except as aforesaid, the consideration to be paid for the purchase of any such lands, or for any damage done thereto, shall be in a gross sum*].

11. Payment of rents to be charged on tolls.—The yearly rents reserved by any such conveyance shall be charged on the tolls or rates, if any, payable under the special Act, and shall be otherwise secured in such manner as shall be agreed between the parties, and shall be paid by the promoters of the undertaking as such rents become payable; and if at any time any such rents be not paid within thirty days after they so become payable, and after demand thereof in writing, the person to whom any such rent shall be payable may either recover the same from the promoters of the undertaking, with costs of suit, by action of debt in any of the superior courts, or it shall be lawful for him to levy the same by distress of the goods and chattels of the promoters of the undertaking.

12. Power to purchase lands required for additional accommodation.—In case the promoters of the undertaking shall be empowered by the special Act to purchase lands for extraordinary purposes, it shall be lawful for all parties who, under the provisions herein-before contained, would be enabled to sell and convey lands, to sell and convey the lands so authorised to be purchased for extraordinary purposes.

13. Authority to sell and repurchase such lands.—It shall be lawful for the promoters of the undertaking to sell the lands which they shall have so acquired for extraordinary purposes, or any part thereof, in such manner, and for such considerations, and to such persons, as the promoters of the undertaking may think fit, and again to purchase other lands for the like purposes, and afterwards sell the same, and so from time to time; but the total quantity of land to be held at any one time by the promoters of the undertaking for the purposes aforesaid shall not exceed the prescribed quantity.

14. Restraint on purchase from incapacitated persons.—The promoters of the undertaking shall not, by virtue of the power to purchase land for extraordinary purposes, purchase more than the prescribed quantity from any party under legal disability, or who would not be able to sell and convey such lands except under the powers of this and the special Act; and if the promoters of the undertaking purchase the said quantity of land from any party under such legal disability, and afterwards sell the whole or any part of the land so purchased, it shall not be lawful for any party being under legal disability to sell to the promoters of the undertaking any other lands in lieu of the land so sold or disposed of by them.

15. Municipal corporations not to sell without the approbation of the Treasury.—Nothing in this or the special Act contained shall enable any municipal corporation to sell for the purposes of the special Act, without the approbation of the Treasury any lands which they could not have sold without such approbation before the passing of the special Act, other than such lands as the company are by the powers of this or the special Act empowered to purchase or take compulsorily.

Purchase of lands otherwise than by agreement

And with respect to the purchase and taking of lands otherwise than by agreement, be it enacted as follows:

16. Capital to be subscribed before compulsory powers of purchase put in force.—Where the undertaking is intended to be carried into effect by means of a capital to be subscribed by the promoters of the undertaking, the whole of the capital or estimated sum for defraying the expenses of the undertaking shall be subscribed under contract binding the parties thereto, their heirs, executors, and administrators, for the payment of the several sums by them respectively subscribed, before it shall be lawful to put in force any of the powers of this or the special Act, or any Act incorporated therewith, in relation to the compulsory taking of land for the purposes of the undertaking.

17. A certificate of two justices to be evidence that the capital has been subscribed.—A certificate under the hands of two justices, certifying that the whole of the prescribed sum has been subscribed, shall be sufficient evidence thereof; and on the application of the promoters of the undertaking, and the production of such evidence as such justices think proper and sufficient, such justices shall grant such certificate accordingly.

18. Notice of intention to take lands.—When the promoters of the undertaking shall require to purchase or take any of the lands which by this or the special Act, or any Act incorporated therewith, they are authorised to purchase or take, they shall give notice thereof to all the parties interested in such lands, or to the parties enabled by this Act to sell and convey or release the same, or such of the said parties as shall, after diligent inquiry, be known to the promoters of the undertaking, and by such notice shall demand from such parties the particulars of their estate and interest in such lands, and of the claims made by them in respect thereof; and every such notice shall state the particulars of the lands so required, and that the promoters of the

undertaking are willing to treat for the purchase thereof, and as to the compensation to be made to all parties for the damage that may be sustained by them by reason of the execution of the works.

19. Service of notices on owners and occupiers of lands.—All notices required to be served by the promoters of the undertaking upon the parties interested in or entitled to sell any such lands shall either be served personally on such parties or left at their last usual place of abode, if any such can after diligent inquiry be found, and in case any such parties shall be absent from the United Kingdom, or cannot be found after diligent inquiry, shall also be left with the occupier of such lands, or, if there be no such occupier, shall be affixed upon some conspicuous part of such lands.

20. Service of notice on a corporation aggregate.—If any such party be a corporation aggregate such notice shall be left at the principal office of business of such corporation, or, if no such office can after diligent inquiry be found, shall be served on some principal member, if any, of such corporation, and such notice shall also be left with the occupier of such lands, or, if there be no such occupier, shall be affixed upon some conspicuous part of such lands.

21. If parties fail to treat or in case of dispute, question to be settled as after mentioned.—If for twenty-one days after the service of such notice any such party shall fail to state the particulars of his claim in respect of any such land, or to treat with the promoters of the undertaking in respect thereof, or if such party and the promoters of the undertaking shall not agree as to the amount of the compensation to be paid by the promoters of the undertaking for the interest in such lands belonging to such party, or which he is by this or the special Act enabled to sell, or for any damage that may be sustained by him by reason of the execution of the works, the amount of such compensation shall be settled in the manner herein-after provided for settling cases of disputed compensation.

22. Disputes as to compensation, where the amount claimed does not exceed £50, to be settled by two justices.—If no agreement be come to between the promoters of the undertaking and the owners of or parties by this Act enabled to sell and convey or release any lands taken or required for or injuriously affected by the execution of the undertaking, or any interest in such lands, as to the value of such lands or of any interest therein, or as to the compensation to be made in respect thereof, and if in any such case the compensation claimed shall not exceed fifty pounds, the same shall be settled by two justices.

23. Compensation exceeding £50 to be settled by arbitration or jury, at the option of the party claiming compensation.—If the compensation claimed or offered in any such case shall exceed fifty pounds, and if the party claiming compensation desire to have the same settled by arbitration, and signify such desire by notice in writing to the promoters of the undertaking, before they have issued their warrant to the sheriff to summon a jury in respect of such lands, under the provisions herein-after contained, stating in such notice the nature of the interest in respect of which such party claims compensation, and the amount of the compensation so claimed, the same shall be so settled accordingly; but unless the party claiming compensation shall as aforesaid signify his desire to have the question of such compensation settled by arbitration, or if when the matter shall have been referred to arbitration the arbitrators or their umpire shall for three months have failed to make their or his award, or if no final award shall be made, the question of such compensation shall be settled by the verdict of a jury, as herein-after provided.

24. Method of proceeding for settling disputes as to compensation by justices.—It shall be lawful for any justice, upon the application of either

party with respect to any question of disputed compensation by this or the special Act, or any Act incorporated therewith, authorised to be settled by two justices, to summon the other party to appear before two justices, at a time and place to be named in the summons, and upon the appearance of such parties, or in the absence of any of them, upon proof of due service of the summons, it shall be lawful for such justices to hear and determine such question, and for that purpose to examine such parties or any of them, and their witnesses upon oath, and the costs of every such inquiry shall be in the discretion of such justices, and they shall settle the amount thereof.

25. Appointment of arbitrators when questions are to be determined by arbitration.—When any question of disputed compensation by this or the special Act, or any Act incorporated therewith, authorised or required to be settled by arbitration shall have arisen, then, unless both parties shall concur in the appointment of a single arbitrator, each party on the request of the other party shall nominate and appoint an arbitrator, to whom such dispute shall be referred; and every appointment of an arbitrator shall be made on the part of the promoters of the undertaking under the hands of the said promoters or any two of them, or of their secretary or clerk, and on the part of any other party under the hand of such party, or if such party be a corporation aggregate under the common seal of such corporation; and such appointment shall be delivered to the arbitrator, and shall be deemed a submission to arbitration on the part of the party by whom the same shall be made; and after any such appointment shall have been made neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as a revocation; and if for the space of fourteen days after any such dispute shall have arisen, and after a request in writing, in which shall be stated the matter so required to be referred to arbitration, shall have been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such arbitrator, then upon such failure the party making the request, and having himself appointed an arbitrator, may appoint such arbitrator to act on behalf of both parties, and such arbitrator may proceed to hear and determine the matters which shall be in dispute, and in such case the award or determination of such single arbitrator shall be final.

26. Vacancy of arbitrator to be supplied.—If before the matters so referred shall be determined any arbitrator appointed by either party die, or become incapable, the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place, and if for the space of seven days after notice in writing from the other party for that purpose he fail to do so, the remaining or other arbitrator may proceed *ex parte*; and every arbitrator so to be substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death or disability as aforesaid.

27. Appointment of umpire.—Where more than one arbitrator shall have been appointed such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing under their hands an umpire to decide on any such matters on which they shall differ, or which shall be referred to him under the provisions of this or the special Act; and if such umpire shall die, or become incapable to act, they shall forthwith after such death or incapacity appoint another umpire in his place; and the decision of every such umpire on the matters so referred to him shall be final.

28. Board of Trade empowered to appoint an umpire on neglect of the arbitrators.—If in either of the cases aforesaid the said arbitrators shall refuse or shall for seven days after request of either party to such arbitration neglect to appoint an umpire, the Board of Trade shall, on the application of either party to such arbitration, appoint an umpire, and the decision of such umpire on the matters on which the arbitrators shall differ, or which shall be referred to him under this or the special Act, shall be final.

29. In case of death of single arbitrator, the matter to begin de novo.—If when a single arbitrator shall have been appointed such arbitrator shall die or become incapable to act before he shall have made his award, the matters referred to him shall be determined by arbitration, under the provisions of this or the special Act, in the same manner as if such arbitrator had not been appointed.

30. If either arbitrator refuse to act, the other to proceed ex parte.—If where more than one arbitrator shall have been appointed either of the arbitrators refuse or for seven days neglect to act, the other arbitrator may proceed ex parte, and the decision of such other arbitrator shall be as effectual as if he had been the single arbitrator appointed by both parties.

31. If arbitrators fail to make their award within twenty-one days, or extended time, the matter to go to the umpire.—If where more than one arbitrator shall have been appointed, and where neither of them shall refuse or neglect to act as aforesaid, such arbitrators shall fail to make their award within twenty-one days after the day on which the last of such arbitrators shall have been appointed, or within such extended time (if any) as shall have been appointed for that purpose by both such arbitrators under their hands, the matters referred to them shall be determined by the umpire to be appointed as aforesaid.

32. Power of arbitrators to call for books, etc.—The said arbitrators or their umpire may call for the production of any documents in the possession or power of either party, which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.

33. Arbitrator or umpire to make a declaration.—Before any arbitrator or umpire shall enter into the consideration of any matters referred to him, he shall in the presence of a justice make and subscribe the following declaration; that is to say,
 " I A. B. do solemnly and sincerely declare, that I will faithfully and honestly,
 " and to the best of my skill and ability, hear and determine the matters
 " referred to me under the provisions of the Act [naming the special
 " Act]. A. B.

" Made and subscribed in the presence of ."
 And such declaration shall be annexed to the award when made; and if any arbitrator or umpire having made such declaration shall wilfully act contrary thereto he shall be guilty of a misdemeanor.

34. Costs of arbitration how to be borne.—All the costs of any such arbitration, and incident thereto, to be settled by the arbitrators, shall be borne by the promoters of the undertaking, unless the arbitrators shall award the same or a less sum than shall have been offered by the promoters of the undertaking, in which case each party shall bear his own costs incident to the arbitration, and the costs of the arbitrators shall be borne by the parties in equal proportions.

35. Award to be delivered to the promoters of the undertaking.—The arbitrators shall deliver their award in writing to the promoters of the undertaking, and the said promoters shall retain the same, and shall forthwith, on demand, at their own expense, furnish a copy thereof to the other party to the arbitration, and shall at all times, on demand, produce the said award, and allow the same to be inspected or examined by such party or any person appointed by him for that purpose.

36. Submission may be made a rule of court.—The submission to any such arbitration may be made a rule of any of the superior courts, on the application of either of the parties.

37. Award not void through error in form.—No award made with respect to any question referred to arbitration under the provisions of this or the special Act shall be set aside for irregularity or error in matter of form.

38. Promoters of the undertaking to give notice before summoning a jury.—Before the promoters of the undertaking shall issue their warrant for summoning a jury for settling any case of disputed compensation they shall give not less than ten days notice to the other party of their intention to cause such jury to be summoned; and in such notice the promoters of the undertaking shall state what sum of money they are willing to give for the interest in such lands sought to be purchased by them from such party, and for the damage to be sustained by him by the execution of the works.

39. Warrant for summoning jury to be addressed to the sheriff; or in certain cases to coroner, or to ex-sheriff or ex-coroner.—In every case in which any such question of disputed compensation shall be required to be determined by the verdict of a jury the promoters of the undertaking shall issue their warrant to the sheriff, requiring him to summon a jury for that purpose, and such warrant shall be under the common seal of the promoters of the undertaking if they be a corporation, or if they be not a corporation under the hands and seals of such promoters or any two of them; and if such sheriff be interested in the matter in dispute such application shall be made to some coroner of the county in which the lands in question, or some part thereof, shall be situate; and if all the coroners of such county be so interested such application may be made to some person having filled the office of sheriff or coroner in such county, and who shall be then living there, and who shall not be interested in the matter in dispute; and with respect to the persons last mentioned preference shall be given to one who shall have most recently served either of the said offices; and every ex-sheriff, coroner, or ex-coroner shall have power, if he think fit, to appoint a deputy or assessor.

40. Provisions applicable to sheriff to apply to coroner, or other person acting in place of sheriff.—Throughout the enactments contained in this Act relating to the reference to a jury, where the term "sheriff" is used, the provisions applicable thereto shall be held to apply to every coroner or other person lawfully acting in his place; and in every case in which any such warrant shall have been directed to any other person than the sheriff such sheriff shall, immediately on receiving notice of the delivery of the warrant, deliver over, on application for that purpose, to the person to whom the same shall have been directed, or to any person appointed by him to receive the same, the jurors book and special jurors list belonging to the county where the lands in question shall be situate.

41. Jury to be summoned.—Upon the receipt of such warrant the sheriff shall summon a jury of twenty-four indifferent persons, duly qualified to act as common jurymen in the superior courts, to meet at a convenient time and place to be appointed by him for that purpose, such time not being less than fourteen nor more than twenty-one days after the receipt of such warrant, and such place not being more than eight miles distant from the lands in question, unless by consent of the parties interested, and he shall forthwith give notice to the promoters of the works of the time and place so appointed by him.

42. Jury to be impannelled.—Out of the jurors appearing upon such summons a jury of twelve persons shall be drawn by the sheriff, in such manner as juries for trials of issues joined in the superior courts are by law required to be drawn; and if a sufficient number of jurymen do not appear in obedience to such summons the sheriff shall return other indifferent men, duly qualified as aforesaid, of the bystanders, or others that can speedily be procured, to make up the jury to the number aforesaid; and all parties concerned may have their lawful challenges against any of the jurymen, but no such party shall challenge the array.

43. Sheriff to preside—Witnesses to be summoned—View by jury.

—The sheriff shall preside on the said inquiry, and the party claiming compensation shall be deemed the plaintiff, and shall have all such rights and privileges as the plaintiff is entitled to in the trial of actions at law; and if either party so request in writing, the sheriff shall summon before him any person considered necessary to be examined as a witness touching the matters in question; and on the like request the sheriff shall order the jury, or any six or more of them, to view the place or matter in controversy, in like manner as views may be had in the trial of actions in the superior courts.

44. Penalty on sheriff and jurors for default.—If the sheriff make default in any of the matters herein-before required to be done by him in relation to any such trial or inquiry, he shall forfeit fifty pounds for every such offence, and such penalty shall be recoverable by the promoters of the undertaking by action in any of the superior courts; and if any person summoned and returned upon any jury under this or the special Act, whether common or special, do not appear, or if appearing he refuse to make oath, or in any other manner unlawfully neglect his duty, he shall, unless he show reasonable excuse to the satisfaction of the sheriff, forfeit a sum not exceeding ten pounds, and every such penalty payable by a sheriff or jurymen shall be applied in satisfaction of the costs of the inquiry, so far as the same will extend; and in addition to the penalty hereby imposed every such jurymen shall be subject to the same regulations, pains, and penalties as if such jury had been returned for the trial of an issue joined in any of the superior courts.

45. Penalty on witnesses making default.—If any person duly summoned to give evidence upon any such inquiry, and to whom a tender of his reasonable expenses shall have been made, fail to appear at the time and place specified in the summons, without sufficient cause, or if any person, whether summoned or not, who shall appear as a witness refuse to be examined on oath touching the subject matter in question, every person so offending shall forfeit to the party aggrieved a sum not exceeding ten pounds.

46. Notice of inquiry.—Not less than ten days' notice of the time and place of the inquiry shall be given in writing by the promoters of the undertaking to the other party.

47. If claimant makes default, compensation to be determined by surveyor.—If the party claiming compensation shall not appear at the time appointed for the inquiry such inquiry shall not be further proceeded in, but the compensation to be paid shall be such as shall be ascertained by a surveyor appointed by two justices in manner herein-after provided.

48. Jury to be sworn.—Before the jury proceed to inquire of and assess the compensation or damage in respect of which their verdict is to be given they shall make oath that they will truly and faithfully inquire of and assess such compensation or damage; and the sheriff shall administer such oaths as well as the oaths of all persons called upon to give evidence.

49. Sums to be paid for purchase of lands, and for damage, to be assessed separately.—Where such inquiry shall relate to the value of lands to be purchased, and also to compensation claimed for injury done or to be done to the lands held therewith, the jury shall deliver their verdict separately for the sum of money to be paid for the purchase of the lands required for the works, or of any interest therein belonging to the party with whom the question of disputed compensation shall have arisen, or which under the provisions herein contained he is enabled to sell or convey, and for the sum of money to be paid by way of compensation for the damage, if any, to be sustained by the owner of the lands by reason of the severing of the lands taken from the other lands of such owner, or otherwise injuriously affecting such lands by the exercise of the powers of this or the special Act, or any Act incorporated therewith.

50. Verdict and judgment to be recorded.—The sheriff before whom such inquiry shall be held shall give judgment for the purchase money or compensation assessed by such jury ; and the verdict and judgment shall be signed by the sheriff, and being so signed shall be kept by the clerk of the peace among the records of the general or quarter sessions of the county in which the lands or any part thereof shall be situate in respect of which such purchase money or compensation shall have been awarded ; and such verdicts and judgments shall be deemed records, and the same or true copies thereof shall be good evidence in all courts and elsewhere ; and all persons may inspect the said verdicts and judgments, and may have copies thereof or extracts therefrom, on paying for each inspection thereof one shilling, and for every one hundred words copied or extracted therefrom sixpence, which copies or extracts the clerk of the peace is hereby required to make out, and to sign and certify the same to be true copies.

51. Costs of the inquiry how to be borne.—On every such inquiry before a jury, where the verdict of the jury shall be given for a greater sum than the sum previously offered by the promoters of the undertaking, all the costs of such inquiry shall be borne by the promoters of the undertaking ; but if the verdict of the jury be given for the same or a less sum than the sum previously offered by the promoters of the undertaking, or if the owner of the lands shall have failed to appear at the time and place appointed for the inquiry, having received due notice thereof, one half of the costs of summoning, impannelling, and returning the jury, and of taking the inquiry, and recording the verdict and judgment thereon, in case such verdict shall be taken, shall be defrayed by the owner of the lands, and the other half by the promoters of the undertaking, and each party shall bear his own costs, other than as aforesaid, incident to such inquiry.

52. Particulars of the costs.—The costs of any such inquiry shall, in case of difference, be settled by one of the masters of the Court of Queen's Bench of England or Ireland, according as the lands are situate, on the application of either party, and such costs shall include all reasonable costs, charges, and expences incurred in summoning, impannelling, and returning the jury, taking the inquiry, the attendance of witnesses, the employment of counsel and attornies, recording the verdict and judgment thereon, and otherwise incident to such inquiry.

53. Payment of costs.—If any such costs shall be payable by the promoters of the undertaking, and if within seven days after demand such costs be not paid to the party entitled to receive the same, they shall be recoverable by distress, and on application to any justice he shall issue his warrant accordingly ; and if any such costs shall be payable by the owner of the lands, or of any interest therein the same may be deducted and retained by the promoters of the undertaking, out of any money awarded by the jury to such owner, or determined by the valuation of a surveyor under the provision herein-after contained ; and the payment or deposit of the remainder, if any, of such money shall be deemed payment and satisfaction of the whole thereof, or if such costs shall exceed the amount of the money so awarded or determined the excess shall be recoverable by distress, and on application to any justice he shall issue his warrant accordingly.

54. Special jury to be summoned at the request of either party.—If either party desire any such question of disputed compensation as aforesaid to be tried before a special jury, such question shall be so tried, provided that notice of such desire, if coming from the other party, be given to the promoters of the undertaking before they have issued their warrant to the sheriff ; and for that purpose the promoters of the undertaking shall by their warrant to the sheriff require him to nominate a special jury for such trial ; and thereupon the sheriff shall, as soon as conveniently may be after the receipt by him of such warrant, summon both the parties to appear before him, by themselves or their attornies, at some convenient time and place

appointed by him, for the purpose of nominating a special jury (not being less than five nor more than eight days from the service of such summons) ; and at the place and time so appointed the sheriff shall proceed to nominate and strike a special jury, in the manner in which such juries shall be required by the laws for the time being in force to be nominated or struck by the proper officers of the superior courts, and the sheriff shall appoint a day, not later than the eighth day after striking of such jury, for the parties or their agents to appear before him to reduce the number of such jury, and thereof shall give four days notice to the parties ; and on the day so appointed the sheriff shall proceed to reduce the said special jury to the number of twenty, in the manner used and accustomed by the proper officers of the superior courts.

55. Deficiency of special jurymen.—The special jury on such inquiry shall consist of twelve of the said twenty who shall first appear on the names being called over, the parties having their lawful challenges against any of the said jurymen ; and if a full jury do not appear, or if after such challenges a full jury do not remain, then, upon the application of either party, the sheriff shall add to the list of such jury the names of any other disinterested persons qualified to act as special or common jurymen, who shall not have been previously struck off the aforesaid list, and who may then be attending the court, or can speedily be procured, so as to complete such jury, all parties having their lawful challenges against such persons ; and the sheriff shall proceed to the trial and adjudication of the matters in question by such jury ; and such trial shall be attended in all respects with the like incidents and consequences, and the like penalties shall be applicable, as herein-before provided in the case of a trial by common jury.

56. Other inquiries before same special jury by consent.—Any other inquiry than that for the trial of which such special jury may have been struck and reduced as aforesaid may be tried by such jury, provided the parties thereto respectively shall give their consent to such trial.

57. Jurymen not to attend more than once a year.—No jurymen shall, without his consent, be summoned or required to attend any such proceeding as aforesaid more than once in any year.

58. Compensation to absent parties to be determined by a surveyor appointed by two justices.—The purchase money or compensation to be paid for any lands to be purchased or taken by the promoters of the undertaking from any party who, by reason of absence from the kingdom, is prevented from treating, or who cannot after diligent inquiry be found, who shall not appear at the time appointed for the inquiry before the jury as herein-before provided for, after due notice thereof, and the compensation to be paid for any permanent injury to such lands, shall be such as shall be determined by the valuation of such able practical surveyor as two justices shall nominate for that purpose as herein-after mentioned.

59. Two justices to nominate a surveyor.—Upon application by the promoters of the undertaking to two justices, and upon such proof as shall be satisfactory to them that any such party is, by reason of absence from the kingdom, prevented from treating, or cannot after diligent inquiry be found, or that any such party failed to appear on such inquiry before a jury as aforesaid, after due notice to him for that purpose, such justices shall, by writing under their hands, nominate an able practical surveyor for determining such compensation as aforesaid, and such surveyor shall determine the same accordingly, and shall annex to his valuation a declaration in writing, subscribed by him, of the correctness thereof.

60. Declaration to be made by the surveyor.—Before such surveyor shall enter upon the duty of making such valuation as aforesaid he shall, in the presence of such justices, or one of them, make and subscribe the declaration following at the foot of such nomination ; (that is to say,)

" I A. B. do solemnly and sincerely declare, that I will faithfully, impartially, and honestly, according to the best of my skill and ability, execute the duty of making the valuation hereby referred to me.

A. B.

" Made and subscribed in the presence of ."

And if any surveyor shall corruptly make such declaration, or having made such declaration shall wilfully act contrary thereto, he shall be guilty of a misdemeanor.

61. Valuation, etc., to be produced to the owner of the lands on demand.—The said nomination and declaration shall be annexed to the valuation to be made by such surveyor, and shall be preserved together therewith by the promoters of the undertaking, and they shall at all times produce the said valuation and other documents, on demand, to the owner of the lands comprised in such valuation, and to all other parties interested therein.

62. Expences to be borne by promoters.—All the expences of and incident to every such valuation shall be borne by the promoters of the undertaking.

63. Purchase money and compensation, how to be estimated.—In estimating the purchase money or compensation to be paid by the promoters of the undertaking, in any of the cases aforesaid, regard shall be had by the justices, arbitrators, or surveyors, as the case may be, not only to the value of the land to be purchased or taken by the promoters of the undertaking, but also to the damage, if any, to be sustained by the owner of the lands by reason of the severing of the lands taken from the other lands of such owner, or otherwise injuriously affecting such other lands by the exercise of the powers of this or the special Act, or any Act incorporated therewith.

64. Where compensation to absent party has been determined by a surveyor, the party may have the same submitted to arbitration.—When the compensation payable in respect of any lands, or any interest therein, shall have been ascertained by the valuation of a surveyor, and deposited in the Bank under the provisions herein contained, by reason that the owner of or party entitled to convey such lands or such interest therein as aforesaid could not be found or was absent from the kingdom, if such owner or party shall be dissatisfied with such valuation it shall be lawful for him, before he shall have applied to the Court of Chancery for payment or investment of the monies so deposited under the provisions herein contained, by notice in writing to the promoters of the undertaking, to require the question of such compensation to be submitted to arbitration, and thereupon the same shall be so submitted accordingly, in the same manner as in other cases of disputed compensation herein-before authorised or required to be submitted to arbitration.

65. Question to be submitted to the arbitrators.—The question to be submitted to the arbitrators in the case last aforesaid shall be, whether the said sum so deposited as aforesaid by the promoters of the undertaking was a sufficient sum, or whether any and what further sum ought to be paid or deposited by them.

66. If further sum awarded, promoters to pay or deposit same within fourteen days.—If the arbitrators shall award that a further sum ought to be paid or deposited by the promoters of the undertaking, they shall pay or deposit as the case may require, such further sum within fourteen days after the making of such award, or in default thereof the same may be enforced by attachment, or recovered, with costs, by action or suit in any of the superior courts.

67. Costs of the arbitration.—If the arbitrators shall determine that the sum so deposited was sufficient, the costs of and incident to such arbitration, to be determined by the arbitrators, shall be in the discretion of the

arbitrators; but if the arbitrators shall determine that a further sum ought to be paid or deposited by the promoters of the undertaking, all the costs of and incident to the arbitration shall be borne by the promoters of the undertaking.

68. Compensation to be settled by arbitration or jury, at the option of the party claiming compensation.—If any party shall be entitled to any compensation in respect of any lands, or of any interest therein, which shall have been taken for or injuriously affected by the execution of the works, and for which the promoters of the undertaking shall not have made satisfaction under the provisions of this or the special Act, or any Act incorporated therewith, and if the compensation claimed in such case shall exceed the sum of fifty pounds, such party may have the same settled either by arbitration or by the verdict of a jury, as he shall think fit; and if such party desire to have the same settled by arbitration, it shall be lawful for him to give notice in writing to the promoters of the undertaking of such his desire, stating in such notice the nature of the interest in such lands in respect of which he claims compensation, and the amount of the compensation so claimed therein; and unless the promoters of the undertaking be willing to pay the amount of compensation so claimed, and shall enter into a written agreement for that purpose within twenty-one days after the receipt of any such notice from any party so entitled, the same shall be settled by arbitration in the manner herein provided; or if the party so entitled as aforesaid desire to have such question of compensation settled by jury, it shall be lawful for him to give notice in writing of such his desire to the promoters of the undertaking, stating such particulars as aforesaid, and unless the promoters of the undertaking be willing to pay the amount of compensation so claimed, and enter into a written agreement for that purpose, they shall, within twenty-one days after the receipt of such notice, issue their warrant to the sheriff to summon a jury for settling the same in the manner herein provided, and in default thereof they shall be liable to pay to the party so entitled as aforesaid the amount of compensation so claimed, and the same may be recovered by him, with costs, by action in any of the superior courts.

Application of Compensation

And with respect to the purchase money or compensation coming to parties having limited interests, or prevented from treating, or not making title, be it enacted as follows:

69. Purchase money or compensation payable to parties under disability, amounting to £200 to be deposited in the Bank.—If the purchase money or compensation which shall be payable in respect of any lands, or any interest therein, purchased or taken by the promoters of the undertaking from any corporation, tenant for life or in tail, married woman seised in her own right or entitled to dower, guardian, committee of lunatic or idiot trustee, executor or administrator, or person having a partial or qualified interest only in such lands, and not entitled to sell or convey the same except under the provisions of this or the special Act, or the compensation to be paid for any permanent damage to any such lands, amount to or exceed the sum of two hundred pounds, the same shall be paid into the Bank, in the name and with the privity of the accountant general of the Court of Chancery to be placed to the account there of such accountant general, ex parte the promoters of the undertaking, (describing them by their proper name,) in the matter of the special Act, (citing it,) pursuant to the method prescribed by any Act for the time being in force for regulating monies paid into the said courts; and such monies shall remain so deposited until the same be applied to some one or more of the following purposes; (that is to say,)

In the purchase or redemption of the land tax, or the discharge of any debt or incumbrance affecting the land in respect of which such money

shall have been paid, or affecting other lands settled therewith to the same or the like uses, trusts, or purposes ; or

In the purchase of other lands to be conveyed, limited, and settled upon the like uses, trusts, and purposes, and in the same manner, as the lands in respect of which such money shall have been paid stood settled ; or

If such money shall be paid in respect of any buildings taken under the authority of this or the special Act, or injured by proximity of the works, in removing or replacing such buildings, or substituting others in their stead, in such manner as the Court of Chancery shall direct ; or

In payment to any party becoming absolutely entitled to such money.

70. Order for application, and investment meanwhile.—Such money may be so applied as aforesaid upon an order of the Court of Chancery made on the petition of the party who would have been entitled to the rents and profits of the lands in respect of which such money shall have been deposited ; and until the money can be so applied it may, upon the like order, be invested by the said accountant general in the purchase of three per centum consolidated or three per centum reduced bank annuities, or in government or real securities, and the interest, dividends, and annual proceeds thereof paid to the party who would for the time being have been entitled to the rents and profits of the lands.

71. Sums from £20 to £200 to be deposited, or paid to trustees.—If such purchase money or compensation shall not amount to the sum of two hundred pounds, and shall exceed the sum of twenty pounds, the same shall either be paid into the Bank, and applied in the manner herein-before directed with respect to sums amounting to or exceeding two hundred pounds, or the same may lawfully be paid to two trustees, to be nominated by the parties entitled to the rents or profits of the lands in respect whereof the same shall be payable, such nomination to be signified by writing under the hands of the party so entitled ; and in case of the coverture, infancy, lunacy, or other incapacity of the parties entitled to such monies, such nomination may lawfully be made by their respective husbands, guardians, committees, or trustees ; but such last-mentioned application of the monies shall not be made unless the promoters of the undertaking approve thereof, and of the trustees named for the purpose ; and the money so paid to such trustees, and the produce arising therefrom, shall be by such trustees applied in the manner herein-before directed with respect to money paid into the Bank, but it shall not be necessary to obtain any order of the court for that purpose.

72. Sums not exceeding £20 to be paid to parties.—If such money shall not exceed the sum of twenty pounds, the same shall be paid to the parties entitled to the rents and profits of the lands in respect whereof the same shall be payable, for their own use and benefit ; or in case of the coverture, infancy, idiotcy, lunacy, or other incapacity of any such parties, then such money shall be paid, for their use, to the respective husbands, guardians, committees, or trustees of such persons.

73. All sums payable under contract with persons not absolutely entitled, to be paid into Bank, or to trustees.—All sums of money exceeding twenty pounds which may be payable by the promoters of the undertaking in respect of the taking, using, or interfering with any lands under a contract or agreement with any person who shall not be entitled to dispose of such lands, or of the interest therein contracted to be sold by him, absolutely for his own benefit, shall be paid into the Bank or to trustees in manner aforesaid ; and it shall not be lawful for any contracting party not entitled as aforesaid to retain to his own use any portion of the sums so agreed or contracted to be paid for or in respect of the taking, using, or interfering with any such lands, or in lieu of bridges, tunnels or other accommodation works, or for assenting to or not opposing the passing of the bill

authorising the taking of such lands, but all such monies shall be deemed to have been contracted to be paid for and on account of the several parties interested in such lands, as well in possession as in remainder, reversion, or expectancy: Provided always, that it shall be in the discretion of the Court of Chancery, or the said trustees, as the case may be, to allot to any tenant for life, or for any other partial or qualified estate, for his own use, a portion of the sum so paid into the Bank or to such trustees as aforesaid, as compensation for any injury, inconvenience, or annoyance which he may be considered to sustain, independently of the actual value of the lands to be taken, and of the damage occasioned to the lands held therewith, by reason of the taking of such lands and the making of the works.

74. Court of Chancery may direct application of money in respect of leases or reversions as they may think just.—Where any purchase money or compensation paid into the Bank under the provisions of this or the special Act shall have been paid in respect of any lease for a life or lives or years, or for a life or lives and years, or any estate in lands less than the whole fee simple thereof, or of any reversion dependent on any such lease or estate, it shall be lawful for the Court of Chancery, on the petition of any party interested in such money, to order that the same shall be laid out, invested, accumulated, and paid in such manner as the said court may consider will give to the parties interested in such money the same benefit therefrom as they might lawfully have had from the lease, estate, or reversion in respect of which such money shall have been paid, or as near thereto as may be.

75. Upon deposit being made, the owners of the lands to convey, or in default the lands to vest in the promoters of the undertaking upon a deed poll being executed.—Upon deposit in the Bank in manner herein-before provided of the purchase money or compensation agreed or awarded to be paid in respect of any lands purchased or taken by the promoters of the undertaking under the provisions of this or the special Act, or any Act incorporated therewith, the owner of such lands, including in such term all parties by this Act enabled to sell or convey lands, shall, when required so to do by the promoters of the undertaking, duly convey such lands to the promoters of the undertaking, or as they shall direct; and in default thereof, or if he fail to adduce a good title to such lands to their satisfaction, it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll under their common seal if they be a corporation, or if they be not a corporation, under the hands and seals of the promoters, or any two of them, containing a description of the lands in respect of which such default shall be made, and reciting the purchase or taking thereof by the promoters of the undertaking, and the names of the parties from whom the same were purchased or taken, and the deposit made in respect thereof, and declaring the fact of such default having been made, and such deed poll shall be stamped with the stamp duty which would have been payable upon a conveyance to the promoters of the undertaking of the lands described therein; and thereupon all the estate and interest in such lands of or capable of being sold and conveyed by the party between whom and the promoters of the undertaking such agreement shall have been come to, or as between whom and the promoters of the undertaking such purchase money or compensation shall have been determined by a jury, or by arbitrators, or by a surveyor appointed by two justices, as herein provided, and shall have been deposited as aforesaid, shall vest absolutely in the promoters of the undertaking; and as against such parties, and all parties on behalf of whom they are herein-before enabled to sell and convey, the promoters of the undertaking shall be entitled to immediate possession of such lands.

76. Where parties refuse to convey, or do not show title, or cannot be found, the purchase money to be deposited.—If the owner of any such lands purchased or taken by the promoters of the undertaking, or of any interest therein, on tender of the purchase money or compensation either agreed or awarded to be paid in respect thereof refuse to accept the

same, or neglect or fail to make out a title to such lands, or to the interest therein claimed by him, to the satisfaction of the promoters of the undertaking, or if he refuse to convey or release such lands as directed by the promoters of the undertaking, or if any such owner be absent from the kingdom, or cannot after diligent inquiry be found, or fail to appear on the inquiry before a jury, as herein provided for, it shall be lawful for the promoters of the undertaking to deposit the purchase money or compensation payable in respect of such lands, or any interest therein, in the Bank, in the name and with the privity of the accountant general of the Court of Chancery, to be placed, except in the cases herein otherwise provided for, to his account there, to the credit of the parties interested in such lands, (describing them, so far as the promoters of the undertaking can do,) subject to the control and disposition of the said court.

77. Upon deposit being made a receipt to be given, and the lands to vest in the promoters upon a deed poll being executed.—Upon any such deposit of money as last aforesaid being made the cashier of the Bank shall give to the promoters of the undertaking, or to the party paying in such money by their direction, a receipt for such money, specifying therein for what and for whose use (described as aforesaid) the same shall have been received, and in respect of what purchase the same shall have been paid in ; and it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll, under their common seal if they be a corporation, or if they be not a corporation under the hands and seals of the said promoters, or any two of them, containing a description of the lands in respect whereof such deposit shall have been made, and declaring the circumstances under which and the names of the parties to whose credit such deposit shall have been made, and such deed poll shall be stamped with the stamp duty which would have been payable upon a conveyance to the promoters of the undertaking of the lands described therein ; and thereupon all the estate and interest in such lands of the parties for whose use and in respect whereof such purchase money or compensation shall have been deposited shall vest absolutely in the promoters of the undertaking, and as against such parties they shall be entitled to immediate possession of such lands.

78. Application of monies so deposited.—Upon the application by petition of any party making claim to the money so deposited as last aforesaid, or any part thereof, or to the lands in respect whereof the same shall have been so deposited, or any part of such lands, or any interest in the same, the said Court of Chancery may, in a summary way, as to such court shall seem fit, order such money to be laid out or invested in the public funds, or may order distribution thereof, or payment of the dividends thereof, according to the respective estates, titles, or interests of the parties making claim to such money or lands, or any part thereof, and may make such other order in the premises as to such court shall seem fit.

79. Party in possession to be deemed the owner.—If any question arise respecting the title to the lands in respect whereof such monies shall have been so paid or deposited as aforesaid, the parties respectively in possession of such lands, as being the owners thereof, or in receipt of the rents of such lands, as being entitled thereto at the time of such lands being purchased or taken, shall be deemed to have been lawfully entitled to such lands, until the contrary be shown to the satisfaction of the court ; and unless the contrary be shown as aforesaid the parties so in possession, and all parties claiming under them, or consistently with their possession, shall be deemed entitled to the money so deposited, and to the dividends or interest of the annuities or securities purchased therewith, and the same shall be paid and applied accordingly.

80. Costs in cases of money deposited.—In all cases of monies deposited in the Bank under the provisions of this or the special Act, or an Act incorporated therewith, except where such monies shall have been so

deposited by reason of the wilful refusal of any party entitled thereto to receive the same, or to convey or release the lands in respect whereof the same shall be payable, or by reason of the wilful neglect of any party to make out a good title to the land required, it shall be lawful for the Court of Chancery to order the costs of the following matters, including therein all reasonable charges and expences incident thereto, to be paid by the promoters of the undertaking; (that is to say,) the costs of the purchase or taking of the lands, or which shall have been incurred in consequence thereof, other than such costs as are herein otherwise provided for, and the costs of the investment of such monies in government or real securities, and of the reinvestment thereof in the purchase of other lands, and also the costs of obtaining the proper orders for any of the purposes aforesaid, and of the orders for the payment of the dividends and interest of the securities upon which such monies shall be invested, and for the payment out of court of the principal of such monies, or of the securities whereon the same shall be invested, and of all proceedings relating thereto, except such as are occasioned by litigation between adverse claimants: Provided always, that the costs of one application only for reinvestment in land shall be allowed, unless it shall appear to the Court of Chancery that it is for the benefit of the parties interested in the said monies that the same should be invested in the purchase of lands in different sums and at different times, in which case it shall be lawful for the court, if it think fit, to order the costs of any such investments to be paid by the promoters of the undertaking.

Conveyances

And with respect to the conveyances of lands, be it enacted as follows:

81. Form of conveyances.—Conveyances of lands to be purchased under the provisions of this or the special Act, or any Act incorporated therewith, may be according to the forms in the schedules (A) and (B) respectively to this Act annexed, or as near thereto as the circumstances of the case will admit, or by deed in any other form which the promoters of the undertaking may think fit; and all conveyances made according to the forms in the said schedules, or as near thereto as the circumstances of the case will admit, shall be effectual to vest the lands thereby conveyed in the promoters of the undertaking, and shall operate to merge all terms of years attendant by express declaration, or by construction of law, on the estate or interest so thereby conveyed, and to bar and to destroy all such estates tail, and all other estates, rights, titles, remainders, reversions, limitations, trusts, and interests whatsoever, of and in the lands comprised in such conveyances, which shall have been purchased or compensated for by the consideration therein mentioned; but although terms of years be thereby merged, they shall in equity afford the same protection as if they had been kept on foot, and assigned to a trustee for the promoters of the undertaking to attend the reversion and inheritance.

82. Costs of conveyances.—The costs of all such conveyances shall be borne by the promoters of the undertaking; and such costs shall include all charges and expences, incurred on the part as well of the seller as of the purchaser, of all conveyances and assurances of any such lands, and of any outstanding terms or interest therein, and of deducing, evidencing, and verifying the title to such lands, terms, or interests, and of making out and furnishing such abstracts and attested copies as the promoters of the undertaking may require, and all other reasonable expences incident to the investigation, deduction, and verification of such title.

83. Taxation of costs of conveyances.—If the promoters of the undertaking and the party entitled to any such costs shall not agree as to the amount thereof, such costs shall be taxed by one of the taxing masters of the Court of Chancery, upon an order of the same court, to be obtained upon

petition in a summary way by either of the parties ; and the promoters of the undertaking shall pay what the said master shall certify to be due in respect of such costs to the party entitled thereto, or in default thereof the same may be recovered in the same way as any other costs payable under an order of the said court, or the same may be recovered by distress in the manner herein-before provided in other cases of costs ; and the expence of taxing such costs shall be borne by the promoters of the undertaking, unless upon such taxation one sixth part of the amount of such costs shall be disallowed, in which case the costs of such taxation shall be borne by the party whose costs shall be so taxed, and the amount thereof shall be ascertained by the said master, and deducted by him accordingly in his certificate of such taxation.

Entry on Lands

And with respect to the entry upon lands by the promoters of the undertaking, be it enacted as follows :

84. Payment of price to be made previous to entry, except to survey, etc.—The promoters of the undertaking shall not, except by consent of the owners and occupiers, enter upon any lands which shall be required to be purchased or permanently used for the purposes and under the powers of this or the special Act, until they shall either have paid to every party having any interest in such lands, or deposited in the Bank, in the manner herein mentioned, the purchase money or compensation agreed or awarded to be paid to such parties respectively for their respective interests therein : Provided always, that for the purpose merely of surveying and taking levels of such lands, and of probing or boring to ascertain the nature of the soil, and of setting out the line of the works, it shall be lawful for the promoters of the undertaking, after giving not less than three nor more than fourteen days notice to the owners or occupiers thereof, to enter upon such lands without previous consent, making compensation for any damage thereby occasioned to the owners or occupiers thereof.

85. Promoters to be allowed to enter on lands before purchase, on making deposit by way of security and giving bond.—Provided also, that if the promoters of the undertaking shall be desirous of entering upon and using any such lands before an agreement shall have been come to or an award made or verdict given for the purchase money or compensation to be paid by them in respect of such lands, it shall be lawful for the promoters of the undertaking to deposit in the Bank by way of security, as herein-after mentioned, either the amount of purchase money or compensation claimed by any party interested in or entitled to sell and convey such lands, and who shall not consent to such entry, or such a sum as shall, by a surveyor appointed by two justices in the manner herein-before provided in the case of parties who cannot be found, be determined to be the value of such lands, or of the interest therein which such party is entitled to or enabled to sell and convey, and also to give to such party a bond, under the common seal of the promoters if they be a corporation, or if they be not a corporation under the hands and seals of the said promoters, or any two of them, with two sufficient sureties, to be approved of by two justices in case the parties differ, in a penal sum equal to the sum so to be deposited, conditioned for payment to such party, or for deposit in the Bank for the benefit of the parties interested in such lands as the case may require, under the provisions herein contained, of all such purchase money or compensation as may in manner herein-before provided be determined to be payable by the promoters of the undertaking in respect of the lands so entered upon, together with interest thereon at the rate of five pounds per centum per annum from the time of entering on such lands until such purchase money or compensation shall be paid to such party, or deposited in the Bank for the benefit of the parties interested in such lands, under the provisions herein contained ; and upon such deposit by way of security being made as aforesaid, and such bond being

delivered or tendered to such non-consenting party as aforesaid, it shall be lawful for the promoters of the undertaking to enter upon and use such lands, without having first paid or deposited the purchase money or compensation in other cases required to be paid or deposited by them before entering upon any lands to be taken by them under the provisions of this or the special Act.

86. Upon deposit being made cashier to give receipt.—The money so to be deposited as last aforesaid shall be paid into the Bank in the name and with the privity of the accountant general of the Court of Chancery . . . to be placed to his account there to the credit of the parties interested in or entitled to sell and convey the lands so to be entered upon, and who shall not have consented to such entry, subject to the control and disposition of the said court; and upon such deposit being made the cashier of the Bank shall give to the promoters of the undertaking, or to the party paying in such money by their direction, a receipt for such money specifying therein for what purpose and to whose credit the same shall have been paid in.

87. Deposit to remain as a security, and to be applied under the direction of the court.—The money so deposited as last aforesaid shall remain in the Bank, by way of security to the parties whose lands shall so have been entered upon for the performance of the condition of the bond to be given by the promoters of the undertaking, as herein-before mentioned, and the same may, on the application by petition of the promoters of the undertaking, be ordered to be invested in bank annuities or government securities, and accumulated; and upon the condition of such bond being fully performed it shall be lawful for the Court of Chancery . . . upon a like application, to order the money so deposited, or the funds in which the same shall have been invested, together with the accumulation thereof, to be repaid or transferred to the promoters of the undertaking, or if such condition shall not be fully performed it shall be lawful for the said court to order the same to be applied, in such manner as it shall think fit, for the benefit of the parties for whose security the same shall so have been deposited.

88. The company may pay the deposit money into the Bank by way of security during the time that the office of the accountant general is closed.—If at any time the company be unable, by reason of the closing of the office of the accountant . . . general of the Court of Chancery . . . to obtain his authority in respect of the payment of any sum of money so authorised to be deposited in the Bank by way of security as aforesaid, it shall be lawful for the company to pay into the Bank to the credit of such party or matter as the case may require (subject nevertheless to being dealt with as herein-after provided, and not otherwise,) such sum of money as the promoters of the undertaking shall, by some writing signed by their secretary . . . or solicitors for the time being addressed to . . . the Bank in that behalf, request, and upon any such payment being made the cashier of the Bank shall give a certificate thereof; and in every such case, within ten days after the re-opening of the said accountant general's office, the solicitor for the promoters of the undertaking shall there bespeak the direction for the payment of such sum into the name of the accountant general, and upon production of such direction at the Bank of England the money so previously paid in shall be placed to the credit of the said accountant general accordingly, and the receipt for the said payment be given to the party making the same in the usual way, for the purpose of being filed at the Report Office.

89. Penalty on the promoters of the undertaking entering upon lands without consent before payment of the purchase money.—If the promoters of the undertaking or any of their contractors shall, except as aforesaid, wilfully enter upon and take possession of any lands which shall be required to be purchased or permanently used for the purposes of the special Act, without such consent as aforesaid, or without having made such payment for the benefit of the parties interested in the lands or such deposit

by way of security as aforesaid, the promoters of the undertaking shall forfeit to the party in possession of such lands the sum of ten pounds, over and above the amount of any damage done to such lands by reason of such entry and taking possession as aforesaid, such penalty and damage respectively to be recovered before two justices ; and if the promoters of the undertaking or their contractors shall, after conviction in such penalty as aforesaid, continue in unlawful possession of any such lands, the promoters of the undertaking shall be liable to forfeit the sum of twenty-five pounds for every day they or their contractors shall so remain in possession as aforesaid, such penalty to be recoverable by the party, in possession of such lands, with costs, by action in any of the superior courts : Provided always, that nothing herein contained shall be held to subject the promoters of the undertaking to the payment of any such penalties as aforesaid, if they shall bonâ fide and without collusion have paid the compensation agreed or awarded to be paid in respect of the said lands to any person to whom the promoters of the undertaking may have reasonably believed to be entitled thereto, or shall have deposited the same in the Bank for the benefit of the parties interested in the lands, or made such deposit by way of security in respect thereof as herein-before mentioned, although such person may not have been legally entitled thereto.

90. Decision of justices not conclusive as to the right of the promoters.—On the trial of any action for any such penalty as aforesaid the decision of the justices under the provision herein-before contained shall not be held conclusive as to the right of entry on any such lands by the promoters of the undertaking.

91. Proceedings in case of refusal to deliver possession of lands.—If in any case in which, according to the provisions of this or the special Act, or any Act incorporated therewith, the promoters of the undertaking are authorised to enter upon and take possession of any lands required for the purposes of the undertaking, the owner or occupier of any such lands or any other person refuse to give up the possession thereof, or hinder the promoters of the undertaking from entering upon or taking possession of the same, it shall be lawful for the promoters of the undertaking to issue their warrant to the sheriff to deliver possession of the same to the person appointed in such warrant to receive the same, and upon the receipt of such warrant the sheriff shall deliver possession of any such lands accordingly ; and the costs accruing by reason of the issuing and execution of such warrant, to be settled by the sheriff, shall be paid by the person refusing to give possession ; and the amount of such costs shall be deducted and retained by the promoters of the undertaking from the compensation, if any, then payable by them to such party, or if no such compensation be payable to such party, or if the same be less than the amount of such costs, then such costs, or the excess thereof beyond such compensation, if not paid on demand, shall be levied by distress, and upon application to any justice for that purpose he shall issue his warrant accordingly.

92. Parties not to be required to sell part of a house, etc.—And be it enacted, that no party shall at any time be required to sell or convey to the promoters of the undertaking a part only of any house or other building or manufactory, if such party be willing and able to sell and convey the whole thereof.

Intersected Lands

And with respect to small portions of intersected land, be it enacted as follows :

93. Owners of intersected lands may insist on sale.—If any lands, not being situate in a town or built upon, shall be so cut through and divided by the works as to leave, either on both sides or on one side thereof, a less

quantity of land than half a statute acre, and if the owner of such small parcel of land require the promoters of the undertaking to purchase the same along with the other land required for the purposes of the special Act, the promoters of the undertaking shall purchase the same accordingly, unless the owner thereof have other land adjoining to that so left into which the same can be thrown, so as to be conveniently occupied therewith; and if such owner have any other land so adjoining, the promoters of the undertaking shall, if so required by the owner, at their own expence, throw the piece of land so left into such adjoining land, by removing the fences and levelling the sites thereof, and by soiling the same in a sufficient and workman-like manner.

94. Promoters of the undertaking may insist on purchase where expence of bridges, etc., exceeds the value.—If any such land shall be so cut through and divided as to leave on either side of the works a piece of land of less extent than half a statute acre, or of less value than the expence of making a bridge, culvert, or such other communication between the land so divided as the promoters of the undertaking are, under the provisions of this or the special Act, or any Act incorporated therewith, compellable to make, and if the owner of such lands have not other lands adjoining such piece of land, and require the promoters of the undertaking to make such communication, then the promoters of the undertaking may require such owner to sell to them such piece of land; and any dispute as to the value of such piece of land, or as to what would be the expence of making such communication, shall be ascertained as herein provided for cases of disputed compensation; and on the occasion of ascertaining the value of the land required to be taken for the purposes of the works the jury or the arbitrators, as the case may be, shall, if required by either party, ascertain by their verdict or award the value of any such severed piece of land, and also what would be the expence of making such communication.

Copyholds

And with respect to copyhold lands, be it enacted as follows

95. Conveyances of copyhold lands to be enrolled.—Every conveyance to the promoters of the undertaking of any lands which shall be of copyhold or customary tenure, or of the nature thereof, shall be entered on the rolls of the manor of which the same shall be held or parcel; and on payment to the steward of such manor of such fees as would be due to him on the surrender of the same lands to the use of a purchaser thereof he shall make such enrolment; and every such conveyance, when so enrolled, shall have the like effect, in respect of such copyhold or customary lands, as if the same had been of freehold tenure, nevertheless, until such lands shall have been enfranchised by virtue of the powers herein-after contained, they shall continue subject to the same fines, rents, heriots, and services as were theretofore payable and of right accustomed.

96. Copyhold lands conveyed to the promoters to be enfranchised.—Within three months after the enrolment of the conveyance of any such copyhold or customary lands, or within one month after the promoters of the undertaking shall enter upon and make use of the same for the purposes of the works, which ever shall first happen, or if more than one parcel of such lands holden of the same manor shall have been taken by them, then within one month after the last of such parcels shall have been so taken or entered on by them, the promoters of the undertaking shall procure the whole of the lands holden of such manor so taken by them to be enfranchised, and for that purpose shall apply to the lord of the manor whereof such lands are holden to enfranchise the same, and shall pay to him such compensation in respect thereof as shall be agreed upon between them and him, and if the parties fail to agree respecting the amount of the compensation to be paid

for such enfranchisement the same shall be determined as in other cases of disputed compensation ; and in estimating such compensation the loss in respect of the fines, heriots, and other services payable on death, descent, or alienation, or any other matters which would be lost by the vesting of such copyhold or customary lands in the promoters of the undertaking, or by the enfranchisement of the same, shall be allowed for.

97. Lord of the manor to enfranchise on payment of compensation.

—Upon payment or tender of the compensation so agreed upon or determined, or on deposit thereof in the Bank in any of the cases herein-before in that behalf provided, the lord of the manor whereof such copyhold or customary lands shall be holden shall enfranchise such lands, and the lands so enfranchised shall for ever thereafter be held in free and common soccage ; and in default of such enfranchisement by the lord of the manor or if he fail to adduce a good title thereto to the satisfaction of the promoters of the undertaking, it shall be lawful for them, if they think fit, to execute a deed poll, duly stamped, in the manner herein-before provided in the case of the purchase of lands by them, and thereupon the lands in respect of the enfranchisement whereof such compensation shall have been deposited as aforesaid shall be deemed to be enfranchised, and shall be for ever thereafter held in free and common soccage.

98. Apportionment of copyhold rents.—If any such copyhold or customary lands be subject to any customary or other rent, and part only of the land subject to any such rent be required to be taken for the purposes of the special Act, the apportionment of such rent may be settled by agreement between the owner of the lands and the lord of the manor on the one part, and the promoters of the undertaking on the other part, and if such apportionment be not so settled by agreement, then the same shall be settled by two justices ; and the enfranchisement of any copyhold or customary lands taken by virtue of this or the special Act, or the apportionment of such rents, shall not affect in other respects any custom by or under which any such copyhold or customary lands not taken for such purposes shall be held ; and if any of the lands so required be released from any portion of the rents to which they were subject jointly with any other lands, such last-mentioned lands shall be charged with the remainder only of such rents ; and with reference to any such apportioned rents, the lord of the manor shall have all the same rights and remedies over the lands to which such apportioned rent shall have been assigned or attributed as he had previously over the whole of the lands subject to such rents for the whole of such rents.

Common Lands

And with respect to any such lands being common or waste lands, be it enacted as follows :

99. Compensation for common lands, where held of a manor, etc., how to be paid.—The compensation in respect of the right in the soil of any lands subject to any rights of common shall be paid to the lord of the manor, in case he shall be entitled to the same, or to such party, other than the commoners, as shall be entitled to such right in the soil ; and the compensation in respect of all other commonable and other rights in or over such lands, including therein any commonable or other rights to which the lord of the manor may be entitled, other than his right in the soil of such lands, shall be determined and paid and applied in manner herein-after provided with respect to common lands the right in the soil of which shall belong to the commoners ; and upon payment or deposit in the Bank of the compensation so determined all such commonable and other rights shall cease and be extinguished.

100. Lord of the manor, etc., to convey to the promoters of the undertaking, on receiving compensation for his interest—Deed poll to be executed in certain cases.—Upon payment or tender to the lord of

the manor, or such other party as aforesaid, of the compensation which shall have been agreed upon or determined in respect of the right in the soil of any such lands, or on deposit thereof in the Bank in any of the cases herein-before in that behalf provided, such lord of the manor, or such other party as aforesaid, shall convey such lands to the promoters of the undertaking, and such conveyance shall have the effect of vesting such lands in the promoters of the undertaking, in like manner as if such lord of the manor, or such other party as aforesaid, had been seised in fee simple of such lands at the time of executing such conveyance; and in default of such conveyance it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll, duly stamped, in the manner herein-before provided in the case of the purchase of lands by them, and thereupon the lands in respect whereof such last-mentioned compensation shall have been deposited as aforesaid shall vest absolutely in the promoters of the undertaking, and they shall be entitled to immediate possession thereof, subject nevertheless to the commonable and other rights theretofore affecting the same, until such rights shall have been extinguished by payment or deposit of the compensation for the same in manner herein-after provided.

101. Compensation for common lands where not held of a manor how to be ascertained.—The compensation to be paid with respect to any such lands, being common lands, or in the nature thereof, the right to the soil of which shall belong to the commoners, as well as the compensation to be paid for the commonable and other rights in or over common lands the right in the soil whereof shall not belong to the commoners, other than the compensation to the lord of the manor, or other party entitled to the soil thereof, in respect of his right in the soil thereof, shall be determined by agreement between the promoters of the undertaking and a committee of the parties entitled to commonable or other rights in such lands, to be appointed as next herein-after mentioned.

102. A meeting of the parties interested to be convened.—It shall be lawful for the promoters of the undertaking to convene a meeting of the parties entitled to commonable or other rights over or in such lands to be held at some convenient place in the neighbourhood of the lands, for the purpose of their appointing a committee to treat with the promoters of the undertaking for the compensation to be paid for the extinction of such commonable or other rights; and every such meeting shall be called by public advertisement, to be inserted once at least in two consecutive weeks in some newspaper circulating in the county or in the respective counties and in the neighbourhood in which such lands shall be situate, the last of such insertions being not more than fourteen nor less than seven days prior to any such meeting; and notice of such meeting shall also, not less than seven days previous to the holding thereof, be affixed upon the door of the parish church where such meeting is intended to be held, or if there be no such church some other place in the neighbourhood to which notices are usually affixed; and if such lands be parcel or holden of a manor, a like notice shall be given to the lord of such manor.

103. Meeting to appoint a committee.—It shall be lawful for the meeting so called to appoint a committee, not exceeding five in number, of the parties entitled to any such rights; and at such meeting the decision of the majority of the persons entitled to commonable rights present shall bind the minority and all absent parties.

104. Committee to agree with the promoters of the undertaking.—It shall be lawful for the committee so chosen to enter into an agreement with the promoters of the undertaking for the compensation to be paid for the extinction of such commonable and other rights, and all matters relating thereto, for and on behalf of themselves and all other parties interested therein; and all such parties shall be bound by such agreement; and it

shall be lawful for such committee to receive the compensation so agreed to be paid, and the receipt of such committee, or of any three of them, for such compensation shall be an effectual discharge for the same; and such compensation, when received, shall be apportioned by the committee among the several persons interested therein, according to their respective interests, but the promoters of the undertaking shall not be bound to see to the apportionment or to the application of such compensation, nor shall they be liable for the misapplication or nonapplication thereof.

105. Disputes to be settled as in other cases.—If upon such committee being appointed they shall fail to agree with the promoters of the undertaking as to the amount of the compensation to be paid as aforesaid, the same shall be determined as in other cases of disputed compensation.

106. If no committee be appointed, the amount to be determined by a surveyor.—If, upon being duly convened by the promoters of the undertaking, no effectual meeting of the parties entitled to such commonable or other rights shall take place or if, taking place, such meeting fail to appoint such committee, the amount of such compensation shall be determined by a surveyor, to be appointed by two justices, as herein-before provided in the case of parties who cannot be found.

107. Upon payment of compensation payable to commoners, the lands to vest.—Upon payment or tender to such committee, or any three of them, or if there shall be no such committee then upon deposit in the Bank in the manner provided in the like case of the compensation which shall have been agreed upon or determined in respect of such commonable or other rights, it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll, duly stamped, in the manner herein-before provided in the case of the purchase of lands by them, and thereupon the lands in respect of which such compensation shall have been so paid or deposited shall vest in the promoters of the undertaking freed and discharged from all such commonable or other rights, and they shall be entitled to immediate possession thereof; and it shall be lawful for the Court of Chancery, by an order to be made upon petition, to order payment of the money so deposited to a committee to be appointed as aforesaid, or to make such other order in respect thereto, for the benefit of the parties interested, as it shall think fit.

Lands in Mortgage

And with respect to lands subject to mortgage, be it enacted as follows:

108. Power to redeem mortgages.—It shall be lawful for the promoters of the undertaking to purchase or redeem the interest of the mortgagee of any such lands which may be required for the purposes of the special Act, and that whether they shall have previously purchased the equity of redemption of such lands or not, and whether the mortgagee thereof be entitled thereto in his own right or in trust for any other party, and whether he be in possession of such lands by virtue of such mortgage or not, and whether such mortgage affect such lands solely, or jointly with any other lands not required for the purposes of the special Act; and in order thereto the promoters of the undertaking may pay or tender to such mortgagee the principal and interest due on such mortgage, together with his costs and charges, if any, and also six months additional interest, and thereupon such mortgagee shall immediately convey his interest in the lands comprised in such mortgage to the promoters of the undertaking, or as they shall direct; or the promoters of the undertaking may give notice in writing to such mortgagee that they will pay off the principal and interest due on such mortgage at the end of six months, computed from the day of giving such notice; and if they shall have given any such notice, or if the party entitled to the equity of redemption of any such lands shall have given six months notice of his intention to redeem the same, then at the expiration of either

of such notices, or at any intermediate period, upon payment or tender by the promoters of the undertaking to the mortgagee of the principal money due on such mortgage, and the interest which would become due at the end of six months from the time of giving either of such notices, together with his costs and expenses, if any, such mortgagee shall convey or release his interest in the lands comprised in such mortgage to the promoters of the undertaking, or as they shall direct.

109. Deposit of mortgage money on refusal to accept.—If, in either of the cases aforesaid, upon such payment or tender any mortgagee shall fail to convey or release his interest in such mortgage as directed by the promoters of the undertaking, or if he fail to adduce a good title thereto to their satisfaction, then it shall be lawful for the promoters of the undertaking to deposit in the bank, in the manner provided by this Act in like cases, the principal and interest, together with the costs, if any, due on such mortgage, and also, if such payment be made before the expiration of six months notice as aforesaid, such further interest as would at that time become due ; and it shall be lawful for them, if they think fit, to execute a deed poll, duly stamped, in the manner herein-before provided in the case of the purchase of lands by them ; and thereupon, as well as upon such conveyance by the mortgagee, if any such be made, all the estate and interest of such mortgagee, and of all persons in trust for him, or for whom he may be a trustee, in such lands, shall vest in the promoters of the undertaking, and they shall be entitled to immediate possession thereof in case such mortgagee were himself entitled to such possession.

110. Sum to be paid when mortgage exceeds the value of the lands.—If any such mortgaged lands shall be of less value than the principal, interest, and costs secured thereon, the value of such lands, or the compensation to be made by the promoters of the undertaking in respect thereof, shall be settled by agreement between the mortgagee of such lands and the party entitled to the equity of redemption thereof on the one part, and the promoters of the undertaking on the other part ; and if the parties aforesaid fail to agree respecting the amount of such value or compensation, the same shall be determined as in other cases of disputed compensation ; and the amount of such value or compensation, being so agreed upon or determined, shall be paid by the promoters of the undertaking to the mortgagee, in satisfaction of his mortgage debt, so far as the same will extend ; and upon payment or tender thereof the mortgagee shall convey or release all his interest in such mortgaged lands to the promoters of the undertaking, or as they shall direct.

111. Deposit of such sum when refused on tender.—If upon such payment or tender as aforesaid being made any such mortgagee fail so to convey his interest in such mortgage, or to adduce a good title thereto to the satisfaction of the promoters of the undertaking, it shall be lawful for them to deposit the amount of such value or compensation in the bank, in the manner provided by this Act in like cases ; and every such payment or deposit shall be accepted by the mortgagee in satisfaction of his mortgage debt, so far as the same will extend, and shall be a full discharge of such mortgaged lands from all money due thereon ; and it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll, duly stamped, in the manner herein-before provided in the case of the purchase of lands by them ; and thereupon such lands, as to all such estate and interest as were then vested in the mortgagee, or any person in trust for him, shall become absolutely vested in the promoters of the undertaking, and they shall be entitled to immediate possession thereof in case such mortgagee were himself entitled to such possession ; nevertheless all rights and remedies possessed by the mortgagee against the mortgagor, by virtue of any bond or covenant or other obligation, other than the right to such lands, shall remain in force in respect of so much of the mortgage debt as shall not have been satisfied by such payment or deposit.

112. Sum to be paid where part only of mortgaged lands taken.—

If a part only of any such mortgaged land be required for the purposes of the special Act, and if the part so required be of less value than the principal money, interest, and costs secured on such lands, and the mortgagee shall not consider the remaining part of such lands a sufficient security for the money charged thereon, or be not willing to release the part so required, then the value of such part, and also the compensation (if any) to be paid in respect of the severance thereof or otherwise, shall be settled by agreement between the mortgagee and the party entitled to the equity of redemption of such land on the one part, and the promoters of the undertaking on the other ; and if the parties aforesaid fail to agree respecting the amount of such value or compensation the same shall be determined as in other cases of disputed compensation ; and the amount of such value or compensation, being so agreed upon or determined, shall be paid by the promoters of the undertaking to such mortgagee in satisfaction of his mortgage debt, so far as the same will extend ; and thereupon such mortgagee shall convey or release to them, or as they shall direct, all his interest in such mortgaged lands the value whereof shall have been so paid ; and a memorandum of what shall have been so paid shall be endorsed on the deed creating such mortgage, and shall be signed by the mortgagee ; and a copy of such memorandum shall at the same time (if required) be furnished by the promoters of the undertaking, at their expence, to the party entitled to the equity of redemption of the lands comprised in such mortgage deed.

113. Deposit of such sum when refused on tender—Powers of mortgagee for recovery of residue of mortgage debt.—

If upon payment or tender to any such mortgagee of the amount of the value or compensation so agreed upon or determined such mortgagee shall fail to convey or release to the promoters of the undertaking, or as they shall direct, his interest in the lands in respect of which such compensation shall so have been paid or tendered, or if he shall fail to adduce a good title thereto to the satisfaction of the promoters of the undertaking, it shall be lawful for the promoters of the undertaking to pay the amount of such value or compensation into the bank, in the manner provided by this Act in the case of monies required to be deposited in such bank ; and such payment or deposit shall be accepted by such mortgagee in satisfaction of his mortgage debt, so far as the same will extend, and shall be a full discharge of the portion of the mortgaged lands so required from all money due thereon ; and it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll, duly stamped, in the manner herein-before provided in the case of the purchase of lands by them ; and thereupon such lands shall become absolutely vested in the promoters of the undertaking, as to all such estate and interest as were then vested in the mortgagee, or any person in trust for him, and in case such mortgagee were himself entitled to such possession they shall be entitled to immediate possession thereof ; nevertheless every such mortgagee shall have the same powers and remedies for recovering or compelling payment of the mortgage money, or the residue thereof, (as the case may be,) and the interest thereof respectively, upon and out of the residue of such mortgaged lands, or the portion thereof not required for the purposes of the special Act, as he would otherwise have had or been entitled to for recovering or compelling payment thereof upon or out of the whole of the lands originally comprised in such mortgage.

114. Compensation to be made in certain cases if mortgage paid off before the stipulated time.—

Provided always, that in any of the cases herein-before provided with respect to lands subject to mortgage, if in the mortgage deed a time shall have been limited for payment of the principal money thereby secured, and under the provisions herein-before contained the mortgagee shall have been required to accept payment of his mortgage money, or of part thereof, at a time earlier than the time so limited, the promoters of the undertaking shall pay to such mortgagee, in addition to the sum which shall have been so paid off, all such costs and expenses as

shall be incurred by such mortgagee in respect of or which shall be incidental to the re-investment of the sum so paid off, such costs; in case of difference, to be taxed, and payment thereof enforced, in the manner herein provided with respect to the costs of conveyances; and if the rate of interest secured by such mortgage be higher than at the time of the same being so paid off can reasonably be expected to be obtained on re-investing the same, regard being had to the then current rate of interest, such mortgagee shall be entitled to receive from the promoters of the undertaking, in addition to the principal and interest herein-before provided for, compensation in respect of the loss to be sustained by him by reason of his mortgage money being so prematurely paid off, the amount of such compensation to be ascertained, in case of difference, as in other cases of disputed compensation; and until payment or tender of such compensation as aforesaid the promoters of the undertaking shall not be entitled, as against such mortgagee, to possession of the mortgaged lands under the provision herein-before contained.

Rent-charges

And with respect to lands charged with any rent service, rent-charge, or chief or other rent, or other payment or incumbrance not herein-before provided for, be it enacted as follows:

115. Consideration to be paid for release of lands from rent-charges.—If any difference shall arise between the promoters of the undertaking and the party entitled to any such charge upon any lands required to be taken for the purposes of the special Act, respecting the consideration to be paid for the release of such lands therefrom, or from the portion thereof affecting the lands required for the purposes of the special Act, the same shall be determined as in other cases of disputed compensation.

116. Release of part of land from charge.—If part only of the lands charged with any such rent service, rent-charge, chief or other rent, payment, or incumbrance, be required to be taken for the purposes of the special Act, the apportionment of any such charge may be settled by agreement between the party entitled to such charge and the owner of the lands on the one part, and the promoters of the undertaking on the other part, and if such apportionment be not so settled by agreement the same shall be settled by two justices; but if the remaining part of the lands so jointly subject be a sufficient security for such charge, then, with consent of the owner of the lands so jointly subject, it shall be lawful for the party entitled to such charge to release therefrom the lands required, on condition or in consideration of such other lands remaining exclusively subject to the whole thereof.

117. Deposit in case of refusal to release.—Upon payment or tender of the compensation so agreed upon or determined to the party entitled to any such charge as aforesaid, such party shall execute to the promoters of the undertaking a release of such charge; and if he fail so to do, or if he fail to adduce good title to such charge, to the satisfaction of the promoters of the undertaking, it shall be lawful for them to deposit the amount of such compensation in the Bank, in the manner herein-before provided in like cases, and also, if they think fit, to execute a deed poll, duly stamped, in the manner herein-before provided in the case of the purchase of lands by them, and thereupon the rent service, rent-charge, chief or other rent, payment or incumbrance, or the portion thereof in respect whereof such compensation shall so have been paid, shall cease and be extinguished.

118. Charge to continue on lands not taken.—If any such lands be so released from any such charge or incumbrance, or portion thereof, to which they were subject jointly with other lands, such last-mentioned lands shall alone be charged with the whole of such charge, or with the remainder thereof, as the case may be, and the party entitled to the charge shall have all the same rights and remedies over such last-mentioned lands, for the

whole or for the remainder of the charge, as the case may be, as he had previously over the whole of the lands subject to such charge; and if upon any such charge or portion of charge being so released the deed or instrument creating or transferring such charge be tendered to the promoters of the undertaking for the purpose, they or two of them shall subscribe, or if they be a corporation shall affix their common seal to a memorandum of such release endorsed on such deed or instrument, declaring what part of the lands originally subject to such charge shall have been purchased by virtue of the special Act, and if the lands be released from part of such charge, what proportion of such charge shall have been released, and how much thereof continues payable, or if the lands so required shall have been released from the whole of such charge, then that the remaining lands are thenceforward to remain exclusively charged therewith; and such memorandum shall be made and executed at the expence of the promoters of the undertaking, and shall be evidence in all courts and elsewhere of the facts therein stated, but not so as to exclude any other evidence of the same facts.

Leases

And with respect to lands subject to leases, be it enacted as follows:

119. Where part only of lands under lease taken, the rent to be apportioned.—If any lands shall be comprised in a lease for a term of years unexpired, part only of which lands shall be required for the purposes of the special Act, the rent payable in respect of the lands comprised in such lease shall be apportioned between the lands so required and the residue of such lands; and such apportionment may be settled by agreement between the lessor and lessee of such lands on the one part, and the promoters of the undertaking on the other part, and if such apportionment be not so settled by agreement between the parties such apportionment shall be settled by two justices; and after such apportionment the lessee of such lands shall, as to all future accruing rent, be liable only to so much of the rent as shall be so apportioned in respect of the lands not required for the purposes of the special Act; and as to the lands not so required, and as against the lessee, the lessor shall have all the same rights and remedies for the recovery of such portion of rent as previously to such apportionment he had for the recovery of the whole rent reserved by such lease; and all the covenants, conditions, and agreements of such lease, except as to the amount of rent to be paid, shall remain in force with regard to that part of the land which shall not be required for the purposes of the special Act, in the same manner as they would have done in case such part only of the land had been included in the lease.

120. Tenants to be compensated.—Every such lessee as last aforesaid shall be entitled to receive from the promoters of the undertaking compensation for the damage done to him in his tenancy by reason of the severance of the lands required from those not required or otherwise by reason of the execution of the works.

121. Compensation to be made to tenants from year to year, etc.—If any such lands shall be in the possession of any person having no greater interest therein than as tenant for a year or from year to year, and if such person be required to give up possession of any lands so occupied by him before the expiration of his term or interest therein, he shall be entitled to compensation for the value of his unexpired term or interest in such lands, and for any just allowance which ought to be made to him by an in-coming tenant, and for any loss or injury he may sustain, or if a part only of such lands be required, compensation for the damage done to him in his tenancy by severing the lands held by him, or otherwise injuriously affecting the same; and the amount of such compensation shall be determined by two justices, in case the parties differ about the same; and upon payment or

tender of the amount of such compensation all such persons shall respectively deliver up to the promoters of the undertaking, or to the person appointed by them to take possession thereof, any such lands in their possession required for the purposes of the special Act.

122. Where greater interest claimed than from year to year, lease or grant to be reduced.—If any party, having a greater interest than as tenant at will, claim compensation in respect of any unexpired term or interest under any lease or grant of any such lands, the promoters of the undertaking may require such party to produce the lease or grant in respect of which such claim shall be made, or the best evidence thereof in his power, and if, after demand made in writing by the promoters of the undertaking, such lease or grant, or such best evidence thereof, be not produced within 21 days, the party so claiming compensation shall be considered as a tenant holding only from year to year, and be entitled to compensation accordingly.

123. Limit of time for compulsory purchase.—And be it enacted, that the powers of the promoters of the undertaking for the compulsory purchase or taking of lands for the purposes of the special Act shall not be exercised after the expiration of the prescribed period, and if no period be prescribed not after the expiration of three years from the passing of the special Act.

Interests omitted to be Purchased

And with respect to interests in lands which have by mistake been omitted to be purchased, be it enacted as follows :

124. Purchase by promoters of the undertaking, after entry on lands, of interests the purchase whereof may have been omitted by mistake.—If at any time after the promoters of the undertaking shall have entered upon any lands which under the provisions of this or the special Act, or any Act incorporated therewith, they were authorised to purchase, and which shall be permanently required for the purposes of the special Act, any party shall appear to be entitled to any estate, right, or interest in or charge affecting such lands which the promoters of the undertaking shall through mistake or inadvertence have failed or omitted duly to purchase or to pay compensation for, then, whether the period allowed for the purchase of lands shall have expired or not, the promoters of the undertaking shall remain in the undisturbed possession of such lands, provided within six months after notice of such estate, right, interest, or charge, in case the same shall not be disputed by the promoters of the undertaking, or in case the same shall be disputed then within six months after the right thereto shall have been finally established by law in favour of the party claiming the same, the promoters of the undertaking shall purchase or pay compensation for the same, and shall also pay to such party, or to any other party who may establish a right thereto, full compensation for the mesne profits or interest which would have accrued to such parties respectively in respect thereof during the interval between the entry of the promoters of the undertaking thereon and the time of the payment of such purchase money or compensation by the promoters of the undertaking, so far as such mesne profits or interest may be recoverable in law or equity ; and such purchase money or compensation shall be agreed on or awarded and paid in like manner as according to the provisions of this Act, the same respectively would have been agreed on or awarded and paid in case the promoters of the undertaking had purchased such estate, right, interest, or charge before their entering upon such land, or as near thereto as circumstances will admit.

125. How value of such interests and mesne profits shall be estimated.—In estimating the compensation to be given for any such last-mentioned lands, or any estate or interest in the same, or for any mesne profits thereof, the jury, or arbitrators, or justices, as the case may be, shall

assess the same according to what they shall find to have been the value of such lands, estate or interest, and profits, at the time such lands were entered upon by the promoters of the undertaking, and without regard to any improvements or works made in the said lands by the promoters of the undertaking, and as though the works had not been constructed.

126. Promoters of the undertaking to pay the costs of litigation as to such interests.—In addition to the said purchase money, compensation, or satisfaction, and before the promoters of the undertaking shall become absolutely entitled to any such estate, interest, or charge, or to have the same merged or extinguished for their benefit, they shall, when the right to any such estate, interest, or charge shall have been disputed by the company, and determined in favour of the party claiming the same, pay the full costs and expences of any proceedings at law or in equity for the determination or recovery of the same to the parties with whom any such litigation in respect thereof shall have taken place ; and such costs and expences shall, in case the same shall be disputed, be settled by the proper officer of the court in which such litigation took place

Sale of Superfluous Land

And with respect to lands acquired by the promoters of the undertaking under the provisions of this or the special Act, or any Act incorporated therewith, but which shall not be required for the purposes thereof, be it enacted as follows :

127. Lands not wanted to be sold within ten years after expiration of time limited for completion of works, or in default to vest in owners of adjoining lands.—Within the prescribed period, or if no period be prescribed within ten years after the expiration of the time limited by the special Act for the completion of the works, the promoters of the undertaking shall absolutely sell and dispose of all such superfluous lands, and apply the purchase money arising from such sales to the purposes of the special Act ; and in default thereof all such superfluous lands remaining unsold at the expiration of such period shall thereupon vest in and become the property of the owners of the lands adjoining thereto, in proportion to the extent of their lands respectively adjoining the same.

128. Lands not in a town or built upon, etc., to be offered to owner of lands from which they were originally taken, or to adjoining owners.—Before the promoters of the undertaking dispose of any such superfluous lands they shall, unless such lands be situate within a town, or be lands built upon or used for building purposes, first offer to sell the same to the person then entitled to the lands (if any) from which the same were originally severed ; or if such person refuse to purchase the same, or cannot after diligent inquiry be found, then the like offer shall be made to the person or to the several persons whose lands shall immediately adjoin the lands so proposed to be sold, such persons being capable of entering into a contract for the purchase of such lands ; and where more than one such person shall be entitled to such right of pre-emption such offer shall be made to such persons in succession, one after another, in such order as the promoters of the undertaking shall think fit.

129. Right of pre-emption to be claimed within six weeks from offer—Evidence of refusal, etc., to exercise right.—If any such persons be desirous of purchasing such lands, then within six weeks after such offer of sale they shall signify their desire in that behalf to the promoters of the undertaking ; or if they decline such offer, or if for six weeks they neglect to signify their desire to purchase such lands, the right of pre-emption of every such person so declining or neglecting in respect of the lands included in such offer shall cease ; and a declaration in writing made before a justice by some person not interested in the matter in question, stating that such

offer was made, and was refused, or not accepted within six weeks from the time of making the same, or that the person or all the persons entitled to the right of pre-emption were out of the country, or could not after diligent inquiry be found, or were not capable of entering into a contract for the purchase of such lands, shall in all courts be sufficient evidence of the facts therein stated.

130. Differences as to price to be settled by arbitration.—If any person entitled to such pre-emption be desirous of purchasing any such lands, and such person and the promoters of the undertaking do not agree as to the price thereof, then such price shall be ascertained by arbitration, and the costs of such arbitration shall be in the discretion of the arbitrators.

131. Lands to be conveyed to the purchasers.—Upon payment or tender to the promoters of the undertaking of the purchase money so agreed upon or determined as aforesaid they shall convey such lands to the purchasers thereof, by deed under the common seal of the promoters of the undertaking if they be a corporation, or if not a corporation under the hands and seals of the promoters of the undertaking, or any two of the directors or managers thereof acting by the authority of the body ; and a deed so executed shall be effectual to vest the lands comprised therein in the purchaser of such lands for the estate which shall so have been purchased by him ; and a receipt under such common seal, or under the hands of two of the directors or managers of the undertaking, as aforesaid, shall be a sufficient discharge to the purchaser of any such lands for the purchase money in such receipt expressed to be received.

132. Effect of the word "grant" in conveyances.—In every conveyance of lands to be made by the promoters of the undertaking under this or the special Act the word "grant" shall operate as express covenants by the promoters of the undertaking, for themselves and their successors, or for themselves, their heirs, executors, administrators, and assigns, as the case may be, with the respective grantees therein named, and the successors, heirs, executors, administrators, and assigns of such grantees, according to the quality or nature of such grants, and of the estate or interest therein expressed to be thereby conveyed, as follows, except so far as the same shall be restrained or limited by express words contained in any such conveyance ; (that is to say,)

A covenant that, notwithstanding any act or default done by the promoters of the undertaking, they were at the time of the execution of such conveyance seised or possessed of the lands or premises thereby granted for an indefeasible estate of inheritance in fee simple, free from all incumbrances done or occasioned by them, or otherwise for such estate or interest as therein expressed to be thereby granted, free from incumbrances done or occasioned by them :

A covenant that the grantee of such lands, his heirs, successors, executors, administrators, and assigns, (as the case may be,) shall quietly enjoy the same against the promoters of the undertaking, and their successors, and all other persons claiming under them, and be indemnified and saved harmless by the promoters of the undertaking and their successors from all incumbrances created by the promoters of the undertaking :

A covenant for further assurance of such lands, at the expence of such grantee, his heirs, successors, executors, administrators, or assigns, (as the case may be,) by the promoters of the undertaking, or their successors, and all other persons claiming under them :

And all such grantees, and their several successors, heirs, executors, administrators, and assigns respectively, according to their respective quality or nature, and the estate or interest in such conveyance expressed to be conveyed, may in all actions brought by them assign breaches of covenants, as they might do if such covenants were expressly inserted in such conveyances.

133. Until completion of works, promoters shall make good any deficiency of land tax and poor's rate caused by lands being taken—Land tax may be redeemed.—And be it enacted, that if the promoters of the undertaking become possessed by virtue of this or the special Act, or any Act incorporated therewith, of any lands charged with the land tax, or liable to be assessed to the poor's rate, they shall from time to time, until the works shall be completed and assessed to such land tax or poor's rate, be liable to make good the deficiency in the several assessments for land tax and poor's rate by reason of such lands having been taken or used for the purposes of the works ; and such deficiency shall be computed according to the rental at which such lands, with any building thereon, were valued or rated at the time of the passing of the special Act ; and on demand of such deficiency the promoters of the undertaking, or their treasurer, shall pay all such deficiencies to the collector of the said assessments respectively ; nevertheless, if at any time the promoters of the undertaking think fit to redeem such land tax, they may do so, in accordance with the powers in that behalf given by the Acts for the redemption of the land tax.

Notices

134. Service of notices upon promoters.—And be it enacted, that any summons or notice, or any writ or other proceeding at law or in equity, requiring to be served upon the promoters of the undertaking, may be served by the same being left at or transmitted through the post directed to the principal office of the promoters of the undertaking, or one of the principal offices where there shall be more than one, or being given or transmitted through the post directed to the secretary, or in case there be no secretary the solicitor of the said promoters.

135. Tender of amends—Payment into court.—And be it enacted, that if any party shall have committed any irregularity, trespass, or other wrongful proceeding in the execution of this or the special Act, or any Act incorporated therewith, or by virtue of any power or authority thereby given, and if, before action brought in respect thereof, such party make tender of sufficient amends to the party injured, such last-mentioned party shall not recover in any such action ; and if no such tender shall have been made it shall be lawful for the defendant, by leave of the court where such action shall be pending, at any time before issue joined, to pay into court such sum of money as he shall think fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into court.

Recovery of Penalties

And with respect to the recovery of forfeitures, penalties, and costs, be it enacted as follows :

136. Penalties to be summarily recovered before two justices.—Every penalty or forfeiture imposed by this or the special Act, or by any byelaw made in pursuance thereof, the recovery of which is not otherwise provided for, may be recovered by summary proceeding before two justices. . . .

[S. 137 *rep.* 55 & 56 *Vict. c.* 19 (S.L.R.).]

138. Distress how to be levied.—Where in this or the special Act, or any Act incorporated therewith, any sum of money, whether in the nature of penalty, costs, or otherwise, is directed to be levied by distress, such sum of money shall be levied by distress and sale of the goods and chattels of the party liable to pay the same ; and the overplus arising from the sale of such goods and chattels, after satisfying such sum of money, and the expenses of

the distress and sale, shall be returned, on demand, to the party whose goods shall have been distrained.

139. Application of penalties.—The justices by whom any such penalty or forfeiture shall be imposed may, where the application thereof is not otherwise provided for, award not more than one half thereof to the informer, and shall award the remainder to the overseers of the poor of the parish in which the offence shall have been committed to be applied in aid of the poor's rate of such parish, . . .

140. Distress against the treasurer—Notice to treasurer—Reimbursement of treasurer.—If any such sum shall be payable by the promoters of the undertaking, and if sufficient goods of the said promoters cannot be found whereon to levy the same, it may, if the amount thereof do not exceed twenty pounds, be recovered by distress of the goods of the treasurer of the said promoters, and the justices aforesaid, or either of them, on application, shall issue their or his warrant accordingly ; but no such distress shall issue against the goods of such treasurer unless seven days previous notice in writing, stating the amount so due, and demanding payment thereof, have been given to such treasurer, or left at his residence ; and if such treasurer pay any money under such distress as aforesaid, he may retain the amount so paid by him, and all costs and expences occasioned thereby, out of any money belonging to the promoters of the undertaking coming into his custody or control, or he may sue them for the same.

141. Distress not unlawful for want of form, etc.—No distress levied by virtue of this or the special Act, or any Act incorporated therewith, shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall such party be deemed a trespasser ab initio on account of any irregularity afterwards committed by him, but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage in an action upon the case.

[S. 142 *rep.* 55 & 56 *Vict. c. 19* (S.L.R.).]

143. Penalty on witnesses making default.—It shall be lawful for any justice to summon any person to appear before him as a witness in any matter in which such justice shall have jurisdiction, under the provisions of this or the special Act, at a time and place mentioned in such summons, and to administer to him an oath to testify the truth in such matter ; and if any person so summoned shall, without reasonable excuse, refuse or neglect to appear at the time and place appointed for that purpose, having been paid or tendered a reasonable sum for his expenses, or if any person appearing shall refuse to be examined upon oath or to give evidence before such justice, every such person shall forfeit a sum not exceeding five pounds for every such offence.

[S. 144 *rep.* 55 & 56 *Vict. c. 19* (S.L.R.).]

145. Proceedings not to be quashed for want of form, etc.—No proceeding in pursuance of this or the special Act, or any Act incorporated therewith, shall be quashed or vacated for want of form, nor shall the same be removed by certiorari or otherwise into any of the superior courts.

146. Parties allowed to appeal to quarter sessions, on giving security.—If any party shall feel aggrieved by any determination or adjudication of any justice with respect to any penalty or forfeiture, under the provisions of this or the special Act, or any Act incorporated therewith, such party may appeal to the general quarter sessions [*remainder rep.* 47 & 48 *Vict. c. 43, s. 4*].

147. Court to make such order as they think reasonable.—At the quarter sessions for which such notice shall be given the court shall proceed to hear and determine the appeal in a summary way, or they may, if they think fit, adjourn it to the following sessions; and upon the hearing of such appeal the court may, if they think fit, mitigate any penalty or forfeiture, or they may confirm or quash the adjudication, and order any money paid by the appellant, or levied by distress upon his goods, to be returned to him, and may also order such further satisfaction to be made to the party injured as they may judge reasonable; and they may make such order concerning the costs both of the adjudication and of the appeal, as they may think reasonable.

148. Receiver of the metropolitan police district to receive penalties incurred within his district.—Provided always, that notwithstanding anything herein or in the special Act, or any Act incorporated therewith, contained, every penalty or forfeiture imposed by this or the special Act, or any Act incorporated therewith, or by any byelaw in pursuance thereof, in respect of any offence which shall take place within the metropolitan police district, shall be recovered, enforced, accounted for, and, except where the application thereof is otherwise specially provided for, shall be paid to the receiver of the metropolitan police district, and shall be applied, in the same manner as penalties or forfeitures, other than fines upon drunken persons, or upon constables for misconduct, or for assaults upon police constables, are directed to be recovered, enforced, accounted for, paid, and applied by the Metropolitan Police Courts Act, 1839; and every order or conviction of any of the police magistrates in respect of any such forfeiture or penalty shall be subject to the like appeal and upon the same terms as is provided in respect of any order or conviction of any of the said police magistrates by the said last-mentioned Act; and every magistrate by whom any order or conviction shall have been made shall have the same power of binding over the witnesses who shall have been examined, and such witnesses shall be entitled to the same allowance of expences, as he or they would have had or been entitled to in case the order, conviction, and appeal had been made in pursuance of the provisions of the said last-mentioned Act.

[S. 149 *rep.* 1 & 2 Geo. 5, c. 6, s. 17.]

Access to Special Act

And with respect to the provision to be made for affording access to the special Act by all parties interested, be it enacted as follows:

150. Copies of special Act to be kept and deposited, and allowed to be inspected.—The company shall at all times after the expiration of six months after the passing of the special Act keep in their principal office of business a copy of the special Act, printed by the printers to her Majesty, or some of them; and where the undertaking shall be a railway, canal or other like undertaking, the works of which shall not be confined to one town or place, shall also within the space of such six months deposit in the office of each of the clerks of the peace of the several counties into which the works shall extend a copy of such special Act, so printed as aforesaid; and the said clerks of the peace shall receive, and they and the company respectively shall retain, the said copies of the special Act, and shall permit all persons interested to inspect the same, and make extracts or copies therefrom, in the like manner and upon the like terms and under the like penalty for default as is provided in the case of certain plans and sections by the Parliamentary Documents Deposit Act, 1837.

151. Penalty on company failing to keep or deposit such copies.—If the company shall fail to keep or deposit, as herein-before mentioned, any of the said copies of the special Act, they shall forfeit twenty pounds for

every such offence, and also five pounds for every day afterwards during which such copy shall be not so kept or deposited.

152. Act not to extend to Scotland.—And be it enacted, that this Act shall not extend to Scotland.

[S. 153 *rep.* 38 & 39 *Vict. c.* 66 (S.L.R.).]

SCHEDULES referred to in the foregoing Act.

SCHEDULE (A).

Sect. 81.

FORM of Conveyance.

I, _____, of _____, in consideration of the sum of _____ paid to me [or, as the case may be, into the Bank of England [or Bank of Ireland] in the name and with the privy of the accountant general of the Court of Chancery, ex parte "the promoters of the undertaking" [naming them], or to A.B., of _____ and C.D., of _____, two trustees appointed to receive the same], pursuant to the [here name the special Act], by the [here name the company or other promoters of the undertaking], incorporated [or constituted] by the said Act, do hereby convey to the said company [or other description], their successors and assigns, all [describing the premises to be conveyed], together with all ways, rights, and appurtenances thereto belonging, and all such estate, right, title, and interest in and to the same as I am or shall become seised or possessed of, or am by the said Act empowered to convey, to hold the premises to the said company [or other description], their successors and assigns, for ever, according to the true intent and meaning of the said Act. In witness whereof I have hereunto set my hand and seal, the _____ day of _____ in the year of our Lord _____.

SCHEDULE (B).

Sect. 81.

FORM of Conveyance of Chief Rent.

I, _____, of _____, in consideration of the rent-charge to be paid to me, my heirs and assigns, as herein-after mentioned, by "the promoters of the undertaking" [naming them], incorporated [or constituted] by virtue of the [here name the special Act], do hereby convey to the said company [or other description], their successors and assigns, all [describing the premises to be conveyed], together with all ways, rights, and appurtenances thereunto belonging, and all my estate, right, title, and interest in and to the same and every part thereof to hold the said premises to the said company [or other description], their successors and assigns, for ever, according to the true intent and meaning of the said Act, they the said company [or other description], their successors and assigns, yielding and paying unto me, my heirs and assigns, one clear yearly rent of _____, by equal quarterly [or half-yearly, as agreed upon] portions, henceforth, on the [stating the days], clear of all taxes and deductions. In witness whereof I hereunto set my hand and seal, the _____ day of _____ in the year of our Lord _____.

[*Sched. (C.) rep.* 55 & 56 *Vict. c.* 19 (S.L.R.).]

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